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S. HRG. 98-929

# WILD AND SCENIC RIVER SYSTEM DESIGNATIONS AND AMENDMENTS TO THE ACT OF OCTOBER 2, 1968

## HEARING

BEFORE THE

SUBCOMMITTEE ON
PUBLIC LANDS AND RESERVED WATER

OF THE

COMMITTEE ON
ENERGY AND NATURAL RESOURCES
UNITED STATES SENATE

NINETY-EIGHTH CONGRESS

SECOND SESSION

ON

**S. 416**

A BILL TO AMEND THE WILD AND SCENIC RIVERS ACT BY DESIGNATING A SEGMENT OF THE ILLINOIS RIVER IN OREGON AND THE OWYHEE RIVER IN OREGON AS COMPONENTS OF THE NATIONAL WILD AND SCENIC RIVERS SYSTEMS

**S. 1084**

A BILL TO DESIGNATE ADDITIONAL RIVERS AS COMPONENTS OF THE NATIONAL WILD AND SCENIC RIVERS SYSTEM, AND FOR OTHER PURPOSES

**S. 1756**

A BILL TO PROVIDE FOR ASSISTANCE TO STATE AND LOCAL GOVERNMENTS AND PRIVATE INTERESTS FOR CONSERVATION OF CERTAIN RIVERS, AND FOR OTHER PURPOSES

**S. 2095**

A BILL TO AMEND THE WILD AND SCENIC RIVERS ACT BY DESIGNATING THE WILDCAT RIVER FOR STUDY AS A NATIONAL WILD AND SCENIC RIVER

MARCH 6, 1984

Printed for the use of the Committee on Energy and Natural Resources

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# WILD AND SCENIC RIVER SYSTEM DESIGNATIONS AND AMENDMENTS TO THE ACT OF OCTOBER 2, 1968

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TUESDAY, MARCH 6, 1984

U.S. SENATE,
SUBCOMMITTEE ON PUBLIC LANDS AND RESERVED WATER,
COMMITTEE ON ENERGY AND NATURAL RESOURCES,
*Washington, DC.*

The subcommittee met, pursuant to notice, at 10:10 a.m., in room SD-366, Dirksen Office Building, Hon. Malcolm Wallop, presiding.

Present: Senator Wallop.

Also present: Tony Bevinetto, professional staff member; and Thomas B. Williams, professional staff member for the minority.

## OPENING STATEMENT OF HON. MALCOLM WALLOP, A U.S. SENATOR FROM THE STATE OF WYOMING

Senator WALLOP. Good morning. The Subcommittee on Public Lands and Reserved Water will receive testimony this morning on the following bills: S. 1084, to designate additional rivers as components of the National Wild and Scenic Rivers System and for other purposes; S. 1756, to provide for assistance to State and local governments and private interests for conservation of certain rivers and for other purposes; S. 416, to amend the Wild and Scenic Rivers Act by designating a segment of the Illinois River in Oregon and the Owyhee River in Oregon as components of the National Wild and Scenic Rivers System; and S. 2095, to amend the Wild and Scenic Rivers Act by designating the Wildcat River for study as a national wild and scenic river.

Without objection, I will place a copy of the bills in the hearing record.

In S. 1084, a segment of the Clarks Fork of the Yellowstone River in Wyoming is recommended for designation in the National Wild and Scenic Rivers System. I will not seek to place this segment in the system until the State of Wyoming supports that designation.

In a letter dated August 30, 1984, the Wyoming Water Development Commission, an agency of the State of Wyoming, asked that the Clarks Fork proposal be withdrawn from proposed designation until the State could study possible development of the water. We have notified the State of this hearing and I will place a copy of the August 30 letter in the hearing record.

As you can see, we have many witnesses who have traveled far distances to testify as well as several Members of the Senate and

the House, so I will ask the public witnesses to limit their oral testimony to 3 minutes. Your complete written statement will be printed in full in the hearing record which will remain open for 3 weeks from the date of today.

We will accommodate Senators and Members of Congress as they appear because of their busy schedules. So from time to time, we may have to interrupt your testimony to receive that of sponsors and supporters of these various bills, who are elected officials.

The first witness we have is my colleague from Minnesota, Hon. Dave Durenberger.

[The texts of the bills and the letter from the Wyoming Water Development Commission follow:]

II

98TH CONGRESS
1ST SESSION

# S. 1084

To designate additional rivers as components of the National Wild and Scenic Rivers System, and for other purposes.

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IN THE SENATE OF THE UNITED STATES

APRIL 19 (legislative day, APRIL 18), 1983

Mr. MCCLURE (by request) introduced the following bill; which was read twice and referred to the Committee on Energy and Natural Resources

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# A BILL

To designate additional rivers as components of the National Wild and Scenic Rivers System, and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the Wild and Scenic Rivers Act of October 2, 1968 (82 Stat. 906; 16 U.S.C. 1271–1287) as amended as follows:

TITLE I—AMENDMENTS TO SECTION 3 RELATING TO COMPONENTS OF THE NATIONAL WILD AND SCENIC RIVERS SYSTEM

SEC. 101. Subsection 3(a)(16) is amended by adding the following sentence at the end thereof: "Notwithstanding any other provision of this Act, the installation and operation of

facilities or other activities within or outside the boundaries of the Pere Marquette Wild and Scenic River for the control of lamprey eel shall be permitted subject to such restrictions and conditions as the Secretary of Agriculture may prescribe for the protection of water quality and other values of the river.".

SEC. 102. Subsection 3(a)(21) North Fork American is amended by striking out "agencies of the Departments of the Interior and Agriculture as agreed upon by the Secretaries of such Departments or as directed by the President." and substituting "the Secretary of Agriculture. Public lands administered by the Secretary of the Interior through the Bureau of Land Management within the Wild and Scenic River corridor west of range 11 east, Mount Diablo meridian, shall hereafter be national forest system lands to be administered by the Secretary of Agriculture as part of the Tahoe National Forest, the boundary of which is modified as generally depicted on a map entitled 'Tahoe National Forest inclusion of North Fork American Wild and Scenic River, September 1980'.".

SEC. 103. Section 3(a) is amended by inserting the following new paragraphs at the end thereof:

"(51) CLARKS FORK, WYOMING.—The segment from the property line between private and national forest system lands approximately one-half mile below the Crandall Bridge

downstream to the boundary of the Shoshone National Forest as generally depicted on a map entitled 'Proposed Clarks Fork Wild River' which is on file and available for public inspection in the Office of the Chief, Forest Service, United States Department of Agriculture, and is also part of a document entitled 'Clarks Fork of the Yellowstone, Wild and Scenic River Study'; to be administered by the Secretary of Agriculture.

"(52) ELK, COLORADO.—The main stem upstream from the confluence with the South Fork, the North and South Forks to their headwaters, and the Middle Fork to the confluence of Gilpin Creek and Gold Creek as generally depicted on a map entitled 'Proposed Elk Wild and Scenic River' which is on file and available for public inspection in the Office of the Chief, Forest Service, United States Department of Agriculture, and is also part of a document entitled 'Elk Wild and Scenic River Environmental Impact Statement and Study Report'; to be administered by the Secretary of Agriculture.

"(53) CONEJOS, COLORADO.—The North, Middle, and El Rito Azul Forks from their sources to their confluence with the Conejos River, thence the Conejos River to its confluence with the South Fork (but excluding the Platoro Reservoir as authorized by Public Law 485 and Public Law 76–260 and the segment of river downstream from the Platoro

Reservoir to the boundary between sections 23 and 24, township 26 north, range 4 east, New Mexico and sixth principal meridians) and the South Fork from Glacier Lake to its confluence with the Conejos River as generally depicted on a map entitled 'Preferred, Alternative, Proposed Wild and Scenic River Area Boundary' which is on file and available for public inspection in the Office of the Chief, Forest Service, United States Department of Agriculture, and is also part of a document entitled 'Conejos Wild and Scenic River Study—Final Environmental Impact Statement'; to be administered by the Secretary of Agriculture.

"(54) LOS PINOS, COLORADO.—The segment from the confluence of the North Fork and Rincon La Vaca downstream to the Northern boundary of the Granite Peak Ranch; and, the tributaries, Lake Creek, Flint Creek, Rincon La Vaca, Rincon La Osa, Snowslide Canyon Creek, and Sierra Vandera from their headwaters to their point of confluence with the Los Pinos River as generally depicted on a map entitled "Los Pinos—Wild and Scenic River' which is on file and available for public inspection in the Office of the Chief, Forest Service, United States Department of Agriculture; to be administered by the Secretary of Agriculture.

"(55) VERDE, ARIZONA.—The segment beginning at the boundary between national forest and private land in sections 26 and 27, township 13 north, range 5 east, Gila-Salt

River Meridian, downstream to the vicinity of Table Mountain approximately fourteen miles upstream from Horseshoe Reservoir, as generally depicted on a map entitled 'Verde River—Wild and Scenic River' which is on file and available for public inspection in the Office of the Chief, Forest Service, United States Department of Agriculture; to be administered by the Secretary of Agriculture: *Provided*, That this inspection shall not prevent water users receiving central Arizona project water allocations from diverting that water through an exchange agreement with downstream water users in accordance with Arizona water law.

"(56) AU SABLE, MICHIGAN.—The segment of the main stem from the project boundary of the Mio Pond project downstream to the project boundary at Alcona Pond project as generally depicted on a map entitled 'Au Sable River' which is on file and available for public inspection in the Office of the Chief, Forest Service, United States Department of Agriculture; to be administered by the Secretary of Agriculture.

"(57) SNAKE RIVER, WYOMING.—The segment beginning about one mile below Astoria Hot Springs downstream to the entrance to Palisades Reservoir as generally depicted on a map entitled, 'Potential Classification Boundary' in a document entitled 'Snake River, Wyoming—A Potential Wild and Scenic River' which is on file and available for

public inspection in the Office of the Chief, Forest Service, United States Department of Agriculture; to be administered by the Secretary of Agriculture.

"(58) PIEDRA, COLORADO.—The segment from its confluence with Indian Creek upstream to the boundary between sections 8 and 9, township 36 north, range 3 west, New Mexico principal meridian, and the Middle Fork from the boundary between sections 10 and 15, township 37 north, range 3 west, New Mexico principal meridian to its headwaters as generally depicted on a map entitled 'Proposed Piedra Wild and Scenic River' which is on file and available for public inspection in the Office of the Chief, Forest Service, United States Department of Agriculture, and is also part of a document entitled 'Piedra River Final Environmental Impact Statement and Wild and Scenic River Study'; to be administered by the Secretary of Agriculture.

## TITLE II—STUDY RIVERS

SEC. 201. Section 5(a) is amended by deleting subsection 5(a)(71).

SEC. 202. Section 5(b) is amended as follows:

(a) Add the following proviso at the end of subsection 5(b)(1): ": *Provided further,* That effective on the dates of designation for potential addition, studies of the rivers named in subparagraphs (31), (34), (38), (44), (49), and (55) shall be

completed and the reports thereon transmitted to the Congresss not later than January 1, 1986.".

(b) Delete the wording of the first subsection 5(b)(4) beginning with "There are authorized" and insert in lieu thereof the sentence "For the purposes of conducting the studies of rivers named in section 5(a), there are authorized to be appropriated such funds as are necessary.".

(c) Renumber the second subsection 5(b)(4) beginning with "The studies of the river" as 5(b)(5) and renumber subsection 5(b)(5) as subsection 5(b)(6).

## TITLE III—AMENDMENTS TO PUBLIC LAW 90-542, AS AMENDED

SEC. 301. The first sentence of section 3(b) is amended as follows:

(a) Delete the words "date of this Act" and insert in lieu thereof the words "date of such designation".

(b) Delete the second parenthetical statement and insert in lieu thereof the parenthetical statement, "(which boundaries shall include an average of not more than three hundred and twenty acres of land per mile measured from the ordinary high water mark on both sides of the river)".

(c) Delete the semicolon and the remainder of the sentence after the words "its various segments" and insert in lieu thereof a period.

SEC. 302. The second sentence of section 3(b) is amended as follows:

(a) Delete the words "Said boundaries," and insert in lieu thereof the words "Notice of the availability of said boundaries and".

(b) Delete the words "and development plans".

SEC. 303. Add a new subsection 3(c)(i) as follows:

"(c)(i) The Federal agency charged with the administration of each component of the national wild and scenic rivers system shall prepare a comprehensive management plan for such river which shall provide for the protection of the river values. The plan shall address the costs and effects of resource protection alternatives, necessary development of lands and facilities, appropriate user capacities, and other management practices or techniques necessary to achieve the purposes of the Act. The plan shall also identify alternatives to protect the wild and scenic river values by means other than land acquisition. Where the river flows through Federal lands, the plan shall be coordinated with resource management planning for these adjacent Federal areas. Such plans shall be prepared after consultation with State and local governments and the interested public, and may be prepared in conjunction with plans prescribed by law for adjacent Federal lands. For rivers designated after January 1, 1982, the plans required by this subsection shall be prepared within three full

fiscal years after the date of designation, and notice of the completion and availability of such plans shall be published in the Federal Register. For rivers designated in subparagraphs (1) through (50) inclusive, all boundaries, classifications, and plans completed as of the date of enactment of this subsection shall be valid and shall be reviewed for conformity with the requirements of this subsection within eight years through regular agency planning processes. Notice of modifications to the boundaries and classifications for designated rivers shall be published in the Federal Register as provided in subsection (b) of this section.".

SEC. 304. Add a new subsection 3(c)(ii) as follows:

"(c)(ii) For rivers designated in subparagraphs (51) through (58) of section 3(a), no money shall be appropriated for the acquisition of lands or interests in lands until the comprehensive management plan required by this subsection is prepared: *Provided,* That there is authorized to be appropriated such sums from the Land and Water Conservation Fund as may be necessary for the acquisition of lands and interests in lands identified for acquisition by the comprehensive management plans for said rivers, and for interim emergency acquisitions of lands or interests in lands as determined by the appropriate Secretary to be necessary to protect the values of said rivers, but such sums for emergency acquisitions shall not exceed a total of $500,000 for each of said rivers.".

SEC. 305. Section 4(c) is amended as follows:

(a) Insert after the first sentence the following new sentence: "When 5 per centum or more of the lands within one-quarter mile of a river proposed for designation are under the jurisdiction of another Federal department or agency, the Secretary of the Interior, in exercising his authority pursuant to the provisions of subsection 2(a)(ii) of this Act, shall not approve the designation without the concurrence of the head of such department or Federal agency.".

SEC. 306. Section 4 is amended by adding a new subsection (d):

"(d) For study purposes, the study area of any river proposed in section 5(a) of this Act for potential addition to the national wild and scenic rivers system, unless otherwise provided, shall comprise that area measured within one-quarter mile from the ordinary high water mark on both sides of the river: *Provided,* That this section shall not be construed to limit the possible scope of the study report to address areas which may lie more than one-quarter mile from the river.".

SEC. 307. Section 5 is amended by adding a new subsection (e):

"(e) If a river or portions thereof designated for study under this section are not designated as components of the national wild and scenic rivers system before the end of the

time period provided in section 7(b), then study status shall terminate.".

SEC. 308. (a) Section 6(a) is amended as follows: Add the following sentence at the end thereof: "When a tract of land lies partly within and partly outside the boundaries of a component of the national wild and scenic rivers system, the appropriate Secretary may, with the consent of the landowner for the portion outside the boundaries, acquire the entire tract and the land or any interest therein so acquired outside the boundaries shall not be counted against the one hundred acre fee title limitation. If not needed for outdoor recreation, administrative, or other purposes in furtherance of this Act, such lands or interests, may be disposed of by sale, lease, or exchange as provided in section 14A.".

(b) Section 6(b) is amended by inserting in the first sentence the words "outside the ordinary high water mark on both sides of the river" after the word "acreage", and inserting the words "in fee title" after the word "owned".

SEC. 309. (a) The second sentence of section 7(a) is amended by deleting the words "approval of this Act" and inserting in lieu thereof the words, "designation of a river as a component of the national wild and scenic rivers system".

(b) Section 7(b) is amended as follows:

(1) In the first sentence after subparagraph (i) insert a new subparagraph (ii) as follows:

"(ii) during such interim period from the date a report is due and the time a report is actually submitted to the Congress.".

(2) Redesignate existing subparagraph (ii) as subparagraph (iii).

(3) In the second sentence, insert the word "unreasonably" before the word "diminish".

(4) At the end of the second sentence, delete the words "approval of this Act" and insert in lieu thereof the words, "designation of a river for study as provided for in section 5 of this Act".

SEC. 310. Section 8(a) is amended by deleting the period at the end of the sentence and inserting in lieu thereof a colon, followed by the words: "*Provided,* That this provision shall not be construed to limit the authorities granted in section 6(d) or section 14A of this Act.".

SEC. 311. Section 12(c) is amended by deleting the words "Secretary of the Interior" and inserting in lieu thereof the words "Administrator, Environmental Protection Agency".

SEC. 312. Section 14 is amended by designating the existing section as subsection (a) and adding a new subsection (b) as follows:

"(b) For the conservation purposes of preserving or enhancing the values of components of the national wild and

scenic rivers system, and environs thereof as determined by the appropriate Secretary, landowners are authorized to donate or otherwise convey qualified real property interests to qualified organizations consistent with subsection 170(h)(3) of the Internal Revenue Code of 1954, as amended, including, but not limited to, right-of-way, open space, scenic, or conservation easements, without regard to any limitation on the nature of the estate or interest otherwise transferable within the jurisdiction where the land is located.".

SEC. 313. Delete the existing section 14A and substitute in lieu thereof the following revision:

"SEC. 14A. Where necessary or desirable to achieve the purposes of this Act, the appropriate Secretary may sell, lease, or exchange federally owned lands or interests therein which are within or adjacent to the boundaries or any component of the national wild and scenic rivers system: *Provided,* That such sale, lease, or exchange shall be subject to such reservations, restrictive convenants, or other terms and conditions as may be necessary or desirable to achieve the purposes of the Act. In the exercise of this sale or lease authority, the Secretary shall utilize the standards and procedures provided at section 5(a) of Public Law 90–401 including the provision for a right of first refusal by the last owner of record. The exercise of the exchange authority shall be consistent with the value provisions of section 6(d) of this Act.

The proceeds received from any conveyance under this section shall be credited to the appropriation account bearing the costs of such land acquisition for the affected wild and scenic river, and shall be available for expenditure only to the extent, and in such amounts, as may be provided in advance in appropriation Acts. Any proceeds remaining in such accounts shall be covered into miscellaneous receipts of the Treasury upon completion of such land acquisition for the affected wild and scenic river.".

SEC. 314. Section 16(c) is amended by adding a new sentence at the end thereof, "For any designated wild and scenic river the appropriate Secretary may deem the acquisition of fee title with the reservation of regular existing uses to the owner, as a scenic easement for purposes of this Act, and such an acquisition will not constitute fee title ownership for purposes of section 6(b).".

## TITLE IV—AMENDMENTS PERTAINING TO STATE COMPONENTS OF THE NATIONAL WILD AND SCENIC RIVERS SYSTEM

SEC. 401. Section 2(a) of the Act is amended as follows:

(a) In the first sentence, clause (ii), add the phrase "authorized for inclusion in the national system and" before the word "designated".

(b) After the first sentence, insert the following new sentence: "Any river included within the national wild and

scenic rivers system under the provisions of clause (ii) shall be removed from the national system by the Secretary of the Interior if requested to do so by a resolution of the affected legislature or legislatures of the State or States through which the river flows, and if the Secretary of Agriculture concurs in such removal for those portions of rivers flowing through national forest system lands.".

II

98TH CONGRESS
1ST SESSION

# S. 1756

To provide for assistance to State and local governments and private interests for conservation of certain rivers, and for other purposes.

---

IN THE SENATE OF THE UNITED STATES

AUGUST 3 (legislative day, AUGUST 1), 1983

Mr. DURENBERGER introduced the following bill; which was read twice and referred to the Committee on Energy and Natural Resources

---

# A BILL

To provide for assistance to State and local governments and private interests for conservation of certain rivers, and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That this Act may be cited as the "State and Local River Conservation Act of 1983".

PURPOSE

SEC. 201. (a) FINDINGS.—The Congress finds that—

(1) many rivers throughout the Nation possess outstandingly remarkable scenic, recreational, geologic, fish and wildlife, historical, cultural, or ecological values;

(2) the Nationwide Inventory of Rivers lists many rivers possessing such attributes;

(3) there is considerable support for protecting such rivers from adverse development;

(4) the National Wild and Scenic Rivers System has been successful in protecting a number of these outstanding rivers, but inclusion of all rivers worthy of preservation in the national system is neither possible nor appropriate;

(5) because river preservation works best when it is a cooperative effort among the Federal Government, State and local governments, landowners, and private organizations, a program of Federal incentives for the conservation of such rivers through other than Federal designation is critical to the protection of the Nation's system of freely flowing rivers.

"(b) PURPOSE.—The Congress declares that it is the purpose of this Act to stimulate the conservation of rivers by State and local governments and landowners by providing incentives including grants, protection from adverse development, and support for volunteer efforts.

GRANTS

SEC. 301. (a) The Secretary of the Interior is authorized and directed to make grants to States for—

(1) the establishment and administration of State and local programs to conserve the natural environmental values of rivers within the appropriate jurisdiction concerned, or

(2) conservation by the State, locality, or qualified private organization of any lands which are adjacent to, within or border on the designated boundary of, or are in the environs of rivers included in State, local, or Federal river programs, assessments, or inventories. The appropriate Secretary will determine which lands qualify in the case of rivers included in Federal programs or inventories. The appropriate State agency head, or where the State does not have a river protection program, the Governor will determine which lands qualify in the case of rivers included in State or local programs or assessments.

(3) developing river management plans, technical assistance documents, or regulations for rivers or river segments mentioned in section 301(a)(2) of this Act, or

(4) projects demonstrating innovative methods for river conservation pursuant to guidelines established by the Secretary of the Interior:

*Provided,* That States receiving such grants fulfill the provisions of section 302 of this Act: *Provided further,* That at least 50 per centum of the funds available to any State under

the allocation formula in section 301(e) of this Act shall be made available by that State to local governments and private organizations for the general purposes listed in section 301(a) (1), (2), and (3) of this Act.

(b) No part of any grant made under this section may be used for the acquisition of any land or interest in land, or for development of facilities.

(c) Not more than 50 per centum of the costs of any program or project referred to in subsection 301(a) may be funded by grants made under this section. The remaining share of such cost shall be paid by a State, local government, qualified private organization, or combination thereof in a manner, and with such funds, as may be satisfactory to the Secretary of the Interior. States, local governments, and qualified private organizations may include, as their share of such remaining costs, in-kind contributions, not to exceed 10 per centum of the non-Federal share.

(d) Before approving any grant under section 301(a) of this Act, the Secretary shall receive a written commitment from the State, local government, or qualified private organization for its share of the cost of the program to be funded under this Act.

(e) The grants shall be allocated among the States as follows: 40 per centum of the yearly appropriation shall be divided equally among all States eligible to receive grants.

The remaining 60 per centum shall be distributed to those eligible States in proportion to the total mileage of rivers in the State included in the Nationwide Rivers Inventory.

(f) There are authorized to be appropriated from the general fund in the Treasury such sums as may be necessary for the purposes of this section, not to exceed $5,000,000 in any one fiscal year for grants, plus such additional sums as may be necessary for the administration of this Act.

(g) The Secretary of the Interior shall promulgate such guidelines as (s)he deems necessary to carry out the purposes of this Act with respect to assistance provided under this Act to States, local governments, and qualified organizations.

(h) Where State programs exist, the coordination of grants shall be through the agency responsible for administering the program. State program standards shall be considered as appropriate criteria for grant eligibility where they meet or exceed Federal requirements. No grants shall be made where the result would be to circumvent, erode or otherwise impair the program authority of a State.

SEC. 302. Before a State shall be eligible for the receipt of grants under section 301(a) of this Act, that State shall either have an established State program, or have developed an assessment of the river related resources of the State.

(a) Such assessment shall include (1) an identification of the natural environmental values of rivers within the State;

(2) a priority rating indicating which river or river segments in the State should be conserved and protected from actions which would degrade the outstanding natural environmental values; and (3) a significant public involvement program in the development of the assessment and the protection of their values.

(b) Such assessments, in order to qualify the State for grants under section 301(a) must be approved by the Governor or State statute of the appropriate State, and the Secretary of the Interior.

SEC. 303. (a) For the purpose of developing State river assessments, the Secretary of the Interior is authorized and directed to make grants to States without such assessments, including those States with already established river conservation programs: *Provided,* That (a) not more than 75 per centum of the costs of such an assessment may be funded by grants made under this section. The remaining share of such costs shall be paid by the State in a manner and with such funds as may be satisfactory to the Secretary of the Interior. States may not include, as their share of such remaining costs, in-kind contributions; (b) no State shall be eligible to receive more than one grant under this section for the development of a statewide river assessment; and (c) grants to any one State shall not exceed 15 per centum of the total funds

that would be available to that State based on the formula in section 301(e) of this Act.

(b) There is authorized to be appropriated from the general fund in the Treasury such sums as may be necessary for the purposes of this section, not to exceed $2,000,000.

CITIZEN INVOLVEMENT

SEC. 401. (a)(1) The Secretary of the Interior and the Secretary of Agriculture are authorized to encourage volunteers and volunteer organizations to conserve, maintain and manage, where appropriate, rivers throughout the Nation.

(2) Wherever appropriate in furtherance of the purposes of this Act and section 11 of the Wild and Scenic Rivers Act, each Secretary is authorized and encouraged to use the Volunteers in the Parks Act of 1969, and the Volunteers in the Forests Act of 1972, to recruit, train, and accept volunteers in aid of conservation, maintenance, and management of rivers under their jurisdiction. Volunteers are entitled to reimbursement for incidental expenses including travel, subsistence, quarters, and other appropriate reimbursement as determined by the appropriate Secretary.

(b) Each Secretary, to further conservation efforts on non-Federal rivers, may assist volunteers and volunteer organizations in conserving, maintaining, and managing those rivers. Volunteer work may include, but need not be limited to—

(1) conserving, maintaining, or managing rivers included in State, local, or Federal river programs, assessments, or inventories, or

(2) operating programs to organize and supervise volunteer river preservation efforts with respect to the rivers referred to in paragraph (1), conducting river related research projects, or providing education and training to volunteers on methods of river preservation, maintenance, and management.

(c) The appropriate Secretary may utilize and make available Federal facilities, equipment, tools, and technical assistance to volunteers and volunteer organizations, subject to such limitations and restrictions as the appropriate Secretary deems necessary or desirable.

STATE CONCURRENCE WITH FEDERAL PROPOSALS

SEC. 501. Any applicant for a required Federal license, permit, or exemption from license or permit to conduct an activity affecting land or water uses within or adjacent to the designated boundary of or in the environs of, as determined by the Governor, any river or river segment included in a State program shall provide in the application to the licensing or permitting agency a certification that the proposed activity will not adversely affect the values of the river or river segment for which it was designated. At the same time, the applicant shall furnish to the State or its designated agency a

copy of the certification, with all necessary information and data. Each State with a river program, in order to take advantage of the provisions of this section, shall establish appropriate review procedures in connection therewith. At the earliest practicable time, the State or its designated agency shall notify the appropriate licensing authority that the State concurs with or objects to the applicant's certification. If the State or its designated agency fails to furnish the required notification within one hundred and eighty days after receipt of its copy of the applicant's certification, the State's concurrence with the certification shall be conclusively presumed. No license or permit shall be granted by the Federal agency with licensing authority unless the State or its designated agency has concurred with the applicant's certification or unless, by the State's failure to act, the concurrence is conclusively presumed.

TAX INCENTIVES

SEC. 601. For the purpose of conserving or enhancing the values of rivers included in State, local, or Federal river programs, assessments, or inventories and environs thereof as determined by the appropriate Governor or Secretary, landowners are authorized to donate or otherwise convey qualified real property interest to qualified organizations consistent with subsection 170(h)(3) of the Internal Revenue Code of 1954, as amended, including, but not limited to, right-of-

way, open space, scenic, or conservation easement without regard to any limitation on the nature of the estate or interest otherwise transferable within the jurisdiction where the land is located: *Provided,* That the appropriate agency responsible for the management or supervision of the river concurs in the donation. The conveyance of any such interest in land in accordance with this subsection shall be deemed to further a Federal conservation policy and yield a significant public benefit for purposes of section 6 of Public Law 96–541.

DEFINITIONS

SEC. 701. For the purposes of this Act, the term—

(a) "State program" shall mean a system of rivers or river segments which, in recognition of their natural environmental values has been designated by State statute, constitution, or executive order and has been provided with special protection from water projects and other adverse developments and managed under special guidelines for the preservation of the values for which it was designated;

(b) "local program" shall mean a river or system of rivers or river segments which, in recognition of their natural environmental values has been designated by local ordinance and is managed by a local government under special guidelines for the preservation of the values for which it was designated;

(c) "approved private organization" shall mean any organization under section 501(c)(3) of the Internal Revenue Code of 1954 as amended, with a demonstrable conservation interest and qualifying under regulations promulgated under section 301(g) of this Act;

(d) "in-kind contribution" shall mean a nonmonetary contribution to the non-Federal share of grants under section 301(a) of this Act including, but not limited to land, interest in land, administrative services, and support services such as law enforcement, sanitary facilities, waste removal, or local management;

(e) "natural environmental values" shall mean those characteristics of rivers and adjoining lands, including, but not limited to scenic, recreational, geologic, fish and wildlife, historical, cultural, and ecological characteristics which make the river and adjoining lands worthy of conservation; and

(f) "State, local, or Federal river programs, assessments, or inventories" shall include State and local river programs as defined above; State river assessments as described in section 302 of this Act; the National Wild and Scenic Rivers System as established by the Wild and Scenic Rivers Act, Public Law 90–542, as amended; rivers designated for study under section 5(a) of the Wild and Scenic Rivers Act, Rivers includ-

ed in the list of rivers published pursuant to section 5(d) of the Wild and Scenic Rivers Act; and rivers included in the Nationwide Rivers Inventory, published by the National Park Service in January 1982; and such additional rivers or river segments as may from time to time be identified by the Governors of Montana and Alaska within their respective States as potentially eligible for eventual study and designation for inclusion in the National Wild and Scenic Rivers System.

36-984 O—84——3

II

98TH CONGRESS
1ST SESSION

# S. 416

To amend the Wild and Scenic Rivers Act by designating a segment of the Illinois River in Oregon and the Owyhee River in Oregon as components of the National Wild and Scenic Rivers System.

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IN THE SENATE OF THE UNITED STATES

FEBRUARY 3 (legislative day, JANUARY 25), 1983

Mr. HATFIELD introduced the following bill; which was read twice and referred to the Committee on Energy and Natural Resources

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# A BILL

To amend the Wild and Scenic Rivers Act by designating a segment of the Illinois River in Oregon and the Owyhee River in Oregon as components of the National Wild and Scenic Rivers System.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the Wild and Scenic Rivers Act (82 Stat. 906 as amended; 16 U.S.C. 1271–1287), is further amended as follows:

In section 3(a) after the last paragraph insert the following new paragraphs:

"( ) Illinois, Oregon: The segment from the boundary of the Siskiyou National Forest downstream to its confluence with the Rogue River as generally depicted on a map entitled "Illinois River Study" and is also part of a report entitled "A Proposal: Illinois Wild and Scenic River"; to be administered by the Secretary of Agriculture. After consultation with State and local governments and the interested public, the Secretary shall take such action as is required under subsection (b) of this section within one year from the date of enactment of this paragraph. For the purposes of this Act with respect to the river designated by this paragraph, effective October 1, 1983, there are authorized to be appropriated such sums as necessary for the acquisition of lands or interests in lands, and such sums as necessary for development.

( ) Owyhee, South Fork, Oregon: The main stream from the Oregon-Idaho border downstream to the Owyhee Reservoir as generally depicted on a map entitled "Owyhee South Fork, Oregon"; to be administered by the Secretary of the Interior. After consultation with State and local governments and the interested public, the Secretary shall take such action as is required under subsection (b) of this section within one year from the date of enactment of this paragraph. For the purposes of this Act with respect to the river designated by this paragraph, effective October 1, 1983, there are authorized to be appropriated such sums as necessary for the

acquisition of lands or interests and such sums as necessary for development.".

II

98TH CONGRESS
1ST SESSION

# S. 2095

To amend the Wild and Scenic Rivers Act by designating the Wildcat River for study as a National Wild and Scenic River.

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IN THE SENATE OF THE UNITED STATES

NOVEMBER 14, 1983

Mr. HUMPHREY (for himself and Mr. RUDMAN) introduced the following bill; which was read twice and referred to the Committee on Energy and Natural Resources

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# A BILL

To amend the Wild and Scenic Rivers Act by designating the Wildcat River for study as a National Wild and Scenic River.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That section 5(a) of the Wild and Scenic Rivers Act (Public Law 96–542; 16 U.S.C. 1276(a)) is amended by adding at the end thereof the following new paragraph:

"(89) Wildcat River, New Hampshire: The segment from its headwaters to its confluence with the Ellis River.".

THE STATE OF WYOMING

ED HERSCHLER
GOVERNOR

Water Development Commission

BARRETT BUILDING TELEPHONE: 307-777-7626 CHEYENNE, WYOMING 82002

Michael H. Rogers
Administrator

August 30, 1983

Walter J. Pilch
Chairman
James Noble
Vice Chairman
William J. Kirven, Jr.
Secretary
Lee Coffman
Lewis Freudenthal
Kenneth Kennedy
J.W. Wes Myers
Willard C. Rhoads
Nelson E. Wren, Jr.

The Honorable Malcolm Wallop
United States Senator
210 Russell Senate Office Building
Washington, D. C. 20510

Dear Senator Wallop:

The Wyoming Water Development Commission at its July 18 and 19, 1983, meeting in Powell, Wyoming, reviewed the Commission staff's preliminary evaluation of project alternatives on the Clarks Fork River. There was considerable discussion highlighted by the offering of several motions. The result taken by the Commission is the following motion:

> The Wyoming Water Development Commission requests and recommends that the Congress of the United States withdraw from proposed designation as wild and scenic river that portion of the Clarks Fork River which is located in Wyoming until such time as the States of Wyoming and Montana have agreed upon to use of said water. In the alternative, we request that the presently designated boundary line of the proposed classification as a scenic and wild river be moved upstream one mile in order to allow time for the sovereign States of Wyoming and Montana to make joint plans to develop reservoir sites on the lower portion of the Clarks Fork River.

The Commission has evaluated several alternatives from a reconnaissance point of view. The Commission's motion indicates that the lower sites may be the better sites. Other sites within the canyon were also evaluated. However, more detailed and expensive geotechnical investigation is required to define the technical and cost feasibility of all potential sites. Both sites outside the canyon have the potential for significant water losses into the groundwater system. The canyon sites require drilling to determine bedrock depth. At this point, technical feasibility will depend on a drilling program which we estimate will cost $500,000-$1,000,000 depending on how many reservoir sites and drilling holes are needed to be evaluated. Tunneling has also been brought up as an alternative, but not much has been done in this regard.

Any decision by the Commission to perform geotechnical investigations of proposed sites will depend on adequate funding authorized by the Wyoming Legislature. Since the Wild and Scenic River designation may come up in the interim, the Commission's motion is primarily aimed at the immediacy of such designation. Any detailed study of sites on the Clarks Fork will require time and money. For the moment, proposed designation is the Commission's principal concern. Moreover, cooperation with the State of Montana as specified in the motion is critical but still in the embryonic stages.

If you have any questions, please feel free to contact me.

Sincerely,

Michael H. Reese
Administrator

MHR:ew

cc: Commission Members
Paul Cleary

## STATEMENT OF HON. DAVE DURENBERGER, A U.S. SENATOR FROM THE STATE OF MINNESOTA

Senator DURENBERGER. Thank you very much. I am going to try to keep mine to 3 minutes too with respect to the people who came a long distance, including three from Minnesota that you will hear. I will ask that my full statement be made a part of the record.

Senator WALLOP. By all means.

Senator DURENBERGER. In that statement, I point out that my personal involvement in this issue goes back some 12 to 15 years and my involvement statewide and in the metropolitan area in the Twin Cities with Federal, State, local river conservation and coordination.

I appreciate the opportunity to be here today. I appreciate your taking the time to hear witnesses on S. 1756. The notion that States and local governments could better conserve and manage their rivers may have started somewhere else, but I think it became clear nationally that it could be done from the experiment and the demonstration that took place in Minnesota involving something called the Mississippi Headwaters Board.

That was a management plan for 466 miles of the Mississippi River from its headwaters to the Twin Cities. It is impressive not only for the fact that it is a part of the father of waters or one of the largest rivers in the world, which you would assume would be strictly a national project, but from the fact that there was creativity displayed, the likes of which some people think local government and the private sector and State government is no longer capable.

So you are going to hear today from three witnesses that originated, carried out and made successful at that project. From that project is the chairman of the Senate Committee on Inter-Governmental Relations. We had a series of hearings and came up with S. 1756. The State and Local River Conservation Act is intended simply to complement the Wild and Scenic River Program under which 61 rivers, totaling almost 7,000 miles, have been protected since the year 1968.

But as you know well, we have identified over 60,000 miles of rivers as possessing the exceptional natural values which make them potentially eligible for inclusion into the national system. Even these 60,000 miles of rivers comprise only about 2 percent of the 3.5 million river miles in this country.

So as we approach the whole issue of preservation and management of these vital natural resources, we ought to be looking to a variety of resources to accomplish this. This proposed act strengthens State and local government and the private sector's ability to protect natural resources.

Today, only 27 States have established river preservation programs encompassing approximately 13,000 miles of rivers. Even among those that have adopted a preservation program, the adequacy of protection varies greatly. A large part of this is caused by a lack of funding, personnel, and Government support.

Up to $5 million a year, therefore, would be available under this act in grants to State and local governments or private organizations. These grants could be used for the establishment and admin-

istration of State river programs, development of river management plans and demonstration projects and conservation of streamside lands.

An additional $2 million would be available for States without river programs on a one-time basis to conduct statewide river assessments.

This bill also clarifies existing law concerning citizen involvement and tax incentives. There are, as you well know, Mr. Chairman, existing authorities to promote low-cost river conservation. These include laws that encourage volunteer efforts in our national parks and forest, as well as providing tax incentives for the donation of land for conservation purposes. S. 1756 clarifies these laws to ensure that their applicability to river conservation is recognized and to encourage their use in conserving rivers.

In that regard, and as I enter these comments, I especially wanted to bring up your bill S. 1675 of which I am a cosponsor and I think that that piece of legislation, called the Public Lands Acquisition Act, ties in so closely to this kind of effort, as you pointed out after that hearing, that it is amazing how logical that piece of legislation is.

I think you will find out today, Mr. Chairman, something you already know and the rest of our colleagues need to know that there is a lot of logic in State and local government conservation efforts and in the encouragement of the private sector and landowners in particular. It has been my experience in my State that there would not be so much to save if it were not for the fact that generations of people have saved these resources.

All we need now to do is protect and shelter them against some of the other things we do not do too well, like overtax, overspend, overregulate, and make it difficult for them to conserve these resources.

So I offer to you S. 1756 for your consideration and I hope that during the course of this year we might be able to expedite its passage.

I thank you very much.

[The prepared statement of Senator Durenberger follows:]

# Senator Dave Durenberger

U.S. Senator for Minnesota

(Statement by Senator Dave Durenberger, before the Subcommittee on Public Lands and Reserved Water, Committee on Energy and Natural Resources, March 6, 1984, on S. 1756, the State and Local River Conservation Act.)

Thank you Mr. Chairman.

I am going to be brief this morning as I see you have a full schedule and many of those listed will be speaking to the merits of the bill I introduced last August, S. 1756, the State and Local River Conservation Act.

I have had 15 years of experience with federal, state and local government coordination with the Metro Rivers in Minnesota so I appreciate this opportunity to appear before this Subcommittee and present my thoughts on river conservation and what I think is a workable program to complement the Federal Wild and Scenic Rivers Act.

The notion that states and local governments could better conserve and manage their rivers started in Minnesota with the Mississippi Headwaters Board. Their management plan of the upper 400 miles of the Mississippi River is impresive not only in its success, but that it is a creative and workable alternative to the federal management of a local natural resource.

As Chairman of the Subcommittee on Intergovernmental Relations I held a field hearing in Grand Rapids, Minnesota on the Mississippi Headwaters Board's management program. The legislation being considered today incorporates the recommendations made at that hearing.

The Mississippi Headwaters Board's work is not new to this Committee for you've heard testimony on their successes before. So I'm not going to go into the details of their program, other witnesses this morning, who were involved in developing and implementing the management plan, can speak to that far better than I.

But I would like to point out that the Mississippi Headwaters Board is a coalition of eight counties, the Minnestoa Department of Natural Resources and private citizens working together toward the common goal of protecting their local natural resouuce, the Mississippi River. This is no small feat and it brings us to the point of this morning's hearing.

The State and Local River Conservation Act is intended to complement the Wild and Scenic River's program under which 61 rivers totaling almost 7,000 miles have been protected since 1968. The National Park Service has identified over 60,000 miles of rivers as possessing the exceptional natural values as to make them potentially eligible for inclusion into the national system. These rivers comprise only about 2 percent of the 3.5 million river miles in this country.

But it is clear that the national system cannot, nor is it appropriate that it should, protect all 60,000 miles of these outstanding rivers. The states and local governments must play a vital role.

The State and Local River Conservation Act strengthens state and local government's ability to protect their natural resources. Derived from successful state and local initiatives, its flexibility is needed to move the wild and scenic river program forward. It is an option, with low federal investment, to spur development of state and local river conservation efforts nationwide.

At present, only 27 states have established river preservation programs, encompassing approximately 13,000 miles of rivers. However, even among these programs, the adequacy of protection varies greatly. Because of a lack of funding, personnel and government support, most of these programs fail to provide adequate protection and exist chiefly on paper. According to a recent report on State river programs prepared by the River Conservation Fund, only 9 of the 27 established programs have the legislative and administrative authority to protect the rivers included in the program. Of these nine, only two to three have minimally adequate budgets to achieve their mandates.

Up to 5 million dollars a year would be available in grants to state and local governments or private organizations under S. 1756. These grants can be used for the establishment and administration of state river programs, development of river management plans and demonstration projects, and conservation of streamside lands. These funds cannot be spent directly on land acquisition. Further, 50 percent of the funds available to a state would be passed through to local governments and private organizations.

An additional 2 million dollars is available for states without river programs on a one time basis for that state to conduct a statewide river assessment. Once that assessment is completed, these states would be eligible to participate in the whole program.

Third, this bill clarifies existing law concerning citizen involvement and tax incentives. There are existing authorities to promote low cost river conservation. These include laws which encourage volunteer efforts in our national parks and forests, as well as providing tax incentives for the donation of land for conservation purposes. S. 1756 clarifies these laws to insure that their applicability to river conservation is recognized and to encourage their use in conserving rivers.

Finally, this legislation removes roadblocks to state river conservation efforts. Presently, states can act to protect rivers, but federal agencies can preempt those efforts and allow projects that are counter to established state policies. This bill would provide a mechanism for states to concur in federal development projects on a limited number of rivers which the state has speficially set aside for conservation practices.

Although federal law will continue to protect many of America's rivers, the State and Local River Conservation Act will expand the options available for river conservation, often at a lower cost and with more local control. It builds on the ability of state and local interests to conserve community waters, with the federal government playing a supporting role in river conservation activities without becoming the dominant player.

The merits of this approach has been recognized not only by 14 of my Senate colleagues, but by the states and the environmental community. I would like to include these letters of support in the record.

Mr. Chairman, you have recognized the role that state and local governments as well as private organizations must play in the conservation of their natural resources in your bill, S. 1675, of which I am a cosponsor. The Public Lands Acquistion Act amends the Internal Revenue Code to promote transfers of real property interests to organizations as well as to government bodies for use in conservation purposes. This complements S. 1756 in that it provides the needed incentives to encourage the conservation of lands which make up a river's bed. It doesn't make much sense to preserve and manage a river, if its borders remain open to development.

Clearly, the private sector has a role to play in the conservation of rivers and lands. In most cases, local citizens are eager to manage and preserve their community resources. However, because of fiscal restraints and tight budgets, local governments and private organizations are not able to do so. That is why the measure you introduced and the river's bill being discussed today are so important to the conservation of our natural resources.

I look forward to working with you, and members of the Subcommittee, toward that end.

Thank you.

Senator WALLOP. Thank you. I do appreciate the section, which is section 301 of your bill, which provides those tax incentives for donation or conveyance of property. We are having, as you well know and you can imagine, a difficult time, as the purpose in life is to gather money and do something with it.

I would invite you and others to join me with another concept which is beginning to gel a little bit in my mind, not as a substitute but as a means of expanding the concepts provided in the bill; that is, as part of the appropriations concept, we might authorize a certain amount of tax expenditures to the Forest Service and to the Wildlife Service and to the National Park Service for acquisition, instead of or in addition to, the larger appropriation for outright fee acquisition and see if we cannot get the recognition of the Treasury in that this is potentially much cheaper and certainly as effective, if we can just get the staffers, the administrators, and the different bureaus to work on it.

Maybe you and I can work to expand that concept a little bit. In the meantime, I appreciate what you have included in your bill and I gather that we may have to do some little bit of tightening up on the language as to what the grants can go for, but I approve of the concept of it and we will certainly work on it and see what we can do.

Senator DURENBERGER. Thank you very much.

Senator WALLOP. Senator Humphrey.

## STATEMENT OF HON. GORDON J. HUMPHREY, A U.S. SENATOR FROM THE STATE OF NEW HAMPHSHIRE

Senator HUMPHREY. Good morning, Mr. Chairman.

I am pleased to have the opportunity today to testify on behalf of S. 2095, a bill that would designate the Wildcat River in Jackson, NH, for study for possible inclusion in the National Wild and Scenic Rivers System. Senator Rudman and I introduced this legislation on November 14 of last year and we are both very grateful to you for allowing us a hearing on the bill today.

We in New Hampshire, Mr. Chairman, are fiercely proud of the natural beauty of our State, for it is the State's environment that both shapes and molds our character and also attracts, not incidentally, tourists by the millions every year. Granite staters have a direct personal interest in seeing that our air is kept clean, the waters pure, and the forests green. Our economy depends on it.

But maintaining these standards is no small challenge for a population which is growing rapidly, thus putting ever-increasing stresses and demands on the mountains, lakes, and rivers that provide recreational and outdoor opportunities.

The Wildcat River in Jackson is one such natural resource that is highly popular and widely known as a scenic rural river that provides outstanding recreational opportunities. It is primarily for these reasons that the river is included in the nationwide rivers inventory. But the Wildcat is more than just a nationally significant river located in a small town. It is the centerpiece of the town.

The Wildcat is a gorgeous river that caught the imagination of some of the earliest painters in the area and that today attracts hundreds of visitors daily during the summer months.

From its headwaters in the White Mountain National Forest, the river gains volume and momentum, cascades down through the Carter Notch Area, meanders through open fields, spills across the smooth rock beds of the upper falls and tumbles over the majestic and powerful Jackson Falls before passing through Jackson Village and finding its confluence with the Ellis River.

In the spring the river roars with the rush of snowmelt, but in other seasons it attracts trout fishermen and bathers. The tremendous variety, outstanding geology, and beautiful scenery combine to make the Wildcat a river which attracts a great deal of attention. In many respects, it is remarkable that the river has so far escaped any major degradation, but there is no assurance that this situation will last forever.

Mr. Chairman, the townspeople recognize the critical role that the Wildcat River plays in their economy as a resort community, and they rightly wish to protect this treasure. I have met with the town's officials and citizens and walked along a good stretch of that part of the river and marveled at the beauty of Jackson Falls.

I can tell you from my own observations that the Wildcat River is something very special and deserving of our attention. The townspeople know this and that is why they are virtually unanimous in their desire to see the river studied for possible inclusion in the National Wild and Scenic River System.

Lest you might think, however, that I am proposing legislation that could eventually require substantial investments of Federal money for acquiring property, let me assure you that nothing could be further from my wishes or those of the town. Seventy percent of Jackson lies in the White Mountain National Forest, and adding more land to the forest would only hurt the town's tax base. But the townspeople are interested in looking at other ways in which they might prevent unwise or unwanted development along the Wildcat River. A properly conceived and conducted study of the river should address this need.

In addition, I hope that such a study would also give serious consideration to the role that the State and local governments could play in protecting and managing the Wildcat River, either separately or in cooperation with the Federal Government. Such partnerships and delegations are occurring increasingly on other wild and scenic rivers in the national system and certainly provide examples that are worthy of consideration.

On a broader level, I wish to speak for a moment about S. 1756, the State and Local River Conservation Act, of which I am a cosponsor. Senator Durenberger is to be commended, and I commend him, for this bill, because it is an excellent attempt to encourage river conservation and to return to the States and municipalities greater control over their own waterways.

While this could be billed solely as a States rights issue, I would like to suggest that it simply makes sense to allow the local people, the people who best know a river, to have some say over the river's future. Through its very modest State grant program, its provision which allows the States some say in the issuance of Federal per-

mits and licenses affecting certain rivers, and its efforts to encourage volunteerism and clarify the tax treatment of conservation donations, I believe the bill provides strong incentives for a reinvigorated program of river conservation throughout the country. I commend this bill to you, Mr. Chairman, as one that I believe fits very nicely with the philosophical approach of our President.

In closing, I would like to return to the Wildcat River and to ask the members of this committee for their support in our efforts to protect this river, to preserve its scenic beauty and recreational attributes for now and the future. My bill is broadly supported by the people of Jackson, the town government, some of whom are here today and who, I understand, will testify later, and such groups as the Appalachian Mountain Club, the American Rivers Conservation Council, the National Audubon Society, and the Friends of the Earth.

To date, Mr. Chairman, we have never studied a New Hampshire river under the Wild and Scenic River Act. This is unfortunate because we have so many miles of outstandingly remarkable waters that truly deserve protection. However, this legislation provides us an opportunity to study one such stretch of water, the Wildcat River, and to ensure that a beautiful river and community will be kept that way.

The Wildcat River is an outstanding example of a kind of mountain river that is unique to New England and that so far is unrepresented in the National Wild and Scenic Rivers System. This bill would protect a small part of New Hampshire's heritage and save as part of our national heritage a river that truly represents a discrete physiographic region of the country.

Thank you again, Mr. Chairman, for permitting me to testify today on S. 2095 and I hope that I and my staff can work with you and yours to enact this piece of legislation.

[The prepared statement of Senator Humphrey follows:]

SENATOR GORDON J. HUMPHREY

TESTIMONY ON S. 2095,

A BILL TO DESIGNATE THE WILDCAT RIVER FOR STUDY

AS A NATIONAL WILD AND SCENIC RIVER

BEFORE THE SUBCOMMITTEE ON PUBLIC LANDS AND RESERVED WATER,

SENATE COMMITTEE ON ENERGY AND NATURAL RESOURCES

MARCH 6, 1984

MR. CHAIRMAN AND MEMBERS OF THE COMMITTEE, I AM VERY PLEASED TO HAVE THE OPPORTUNITY THIS MORNING TO TESTIFY ON S. 2095, A BILL THAT WOULD DESIGNATE THE WILDCAT RIVER IN JACKSON, NEW HAMPSHIRE, FOR STUDY FOR POSSIBLE INCLUSION IN THE NATIONAL WILD AND SCENIC RIVERS SYSTEM. SENATOR RUDMAN AND I INTRODUCED THIS LEGISLATION ON NOVEMBER 14TH OF LAST YEAR, AND WE ARE BOTH EXTREMELY GRATEFUL TO YOU FOR GRANTING A HEARING ON THE BILL. ALTHOUGH SENATOR RUDMAN COULD NOT BE HERE THIS MORNING, HE ASKED ME TO TELL YOU THAT HE DOES INTEND TO SUBMIT A STATEMENT ON S. 2095 FOR THE HEARING RECORD.

WE IN NEW HAMPSHIRE ARE FIERCELY PROUD OF THE NATURAL BEAUTY OF OUR STATE, FOR IT IS THE STATE'S ENVIRONMENT THAT BOTH SHAPES AND MOLDS OUR CHARACTER, AND ALSO ATTRACTS TOURISTS BY THE MILLIONS ANNUALLY. GRANITE STATERS HAVE A DIRECT PERSONAL INTEREST IN SEEING THAT THE AIR IS KEPT CLEAN, THE WATERS PURE, AND THE FORESTS GREEN: OUR ECONOMY DEPENDS ON IT. BUT MAINTAINING THESE STANDARDS IS NO SMALL CHALLENGE FOR A STATE

WHOSE POPULATION IS GROWING RAPIDLY, THUS PUTTING EVER INCREASING STRESSES AND DEMANDS ON THE MOUNTAINS, LAKES AND RIVERS THAT PROVIDE RECREATIONAL AND OUTDOOR OPPORTUNITIES, AS WELL AS THE BEAUTIFUL SCENERY FOR WHICH NEW HAMPSHIRE IS SO FAMOUS.

THE WILDCAT RIVER IN JACKSON IS ONE SUCH NATURAL RESOURCE THAT IS HIGHLY POPULAR AND WIDELY KNOWN AS A SCENIC RURAL RIVER THAT PROVIDES OUTSTANDING RECREATIONAL OPPORTUNITIES. IT IS PRIMARILY FOR THESE REASONS THAT THE RIVER IS INCLUDED IN THE NATIONWIDE RIVERS INVENTORY. BUT THE WILDCAT IS MORE THAN JUST A NATIONALLY SIGNIFICANT RIVER LOCATED IN A SMALL TOWN -- IT IS THE CENTERPIECE OF THE TOWN. THE WILDCAT IS A GORGEOUS RIVER THAT CAUGHT THE IMAGINATION OF SOME OF THE EARLIEST PAINTERS IN THE AREA, AND THAT TODAY ATTRACTS HUNDREDS OF VISITORS DAILY DURING THE SUMMER MONTHS.

FROM ITS HEADWATERS IN THE WHITE MOUNTAIN NATIONAL FOREST, THE RIVER GAINS VOLUME AND MOMENTUM, CASCADES DOWN THROUGH THE CARTER NOTCH AREA, MEANDERS THROUGH OPEN FIELDS, SPILLS ACROSS THE SMOOTH ROCK BEDS OF THE UPPER FALLS, AND TUMBLES OVER THE MAJESTIC AND POWERFUL JACKSON FALLS BEFORE PASSING THROUGH JACKSON VILLAGE AND FINDING ITS CONFLUENCE WITH THE ELLIS RIVER. IN THE SPRING THE RIVER ROARS WITH THE RUSH OF SNOWMELT, BUT IN OTHER SEASONS IT ATTRACTS TROUT FISHERMEN AND BATHERS. THE TREMENDOUS VARIETY, OUTSTANDING GEOLOGY, AND BEAUTIFUL SCENERY COMBINE TO MAKE THE WILDCAT A RIVER WHICH ATTRACTS ATTENTION. IN MANY RESPECTS IT IS REMARKABLE THAT THE RIVER HAS SO FAR ESCAPED ANY MAJOR DEGRADATION, BUT THERE IS NO ASSURANCE THAT THIS WILL LAST FOREVER.

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THE TOWNSPEOPLE RECOGNIZE THE CRITICAL ROLE THAT THE WILDCAT RIVER PLAYS IN THEIR ECONOMY AS A RESORT COMMUNITY, AND THEY RIGHTLY WISH TO PROTECT THIS TREASURE. I HAVE MET WITH THE TOWN'S OFFICIALS AND CITIZENS, WALKED ALONG A GOOD STRETCH OF THE RIVER, AND MARVELED AT THE BEAUTY OF JACKSON FALLS. I CAN TELL YOU FROM MY OWN OBSERVATIONS THAT THE WILDCAT RIVER IS SOMETHING VERY SPECIAL AND DESERVING OF OUR ATTENTION. THE TOWNSPEOPLE KNOW THIS, AND THIS IS WHY THEY ARE VIRTUALLY UNANIMOUS IN THEIR DESIRE TO SEE THE RIVER STUDIED FOR POSSIBLE INCLUSION IN THE NATIONAL WILD AND SCENIC RIVER SYSTEM.

LEST YOU MIGHT THINK, HOWEVER, THAT I AM PROPOSING LEGISLATION THAT COULD EVENTUALLY REQUIRE SUBSTANTIAL INVESTMENTS OF FEDERAL MONEY FOR ACQUIRING PROPERTY, LET ME ASSURE YOU THAT NOTHING COULD BE FURTHER FROM MY WISHES OR THOSE OF THE TOWN. SEVENTY PERCENT OF JACKSON LIES IN THE WHITE MOUNTAIN NATIONAL FOREST, AND ADDING MORE LAND TO THE FOREST WOULD ONLY HURT THE TOWN'S TAX BASE. BUT THE TOWNSPEOPLE ARE INTERESTED IN LOOKING AT OTHER WAYS IN WHICH THEY MIGHT PREVENT UNWISE OR UNWANTED DEVELOPMENT ALONG THE WILDCAT RIVER. A PROPERLY CONCEIVED AND CONDUCTED STUDY OF THE RIVER SHOULD ADDRESS THIS NEED.

IN ADDITION, I HOPE THAT SUCH A STUDY WOULD ALSO GIVE SERIOUS CONSIDERATION TO THE ROLE THAT THE STATE AND LOCAL GOVERNMENTS COULD PLAY IN PROTECTING AND MANAGING THE WILDCAT RIVER, EITHER SEPARATELY OR IN COOPERATION WITH THE FEDERAL GOVERNMENT. SUCH PARTNERSHIPS AND DELEGATIONS ARE OCCURRING INCREASINGLY ON OTHER WILD AND SCENIC RIVERS IN THE NATIONAL SYSTEM, AND CERTAINLY PROVIDE EXAMPLES THAT ARE WORTHY OF

CONSIDERATION IN A STUDY OF THE WILDCAT RIVER.

ON A BROADER LEVEL, I WISH TO SPEAK FOR A MOMENT ABOUT S. 1756, THE STATE AND LOCAL RIVER CONSERVATION ACT, OF WHICH I AM A COSPONSOR. SENATOR DURENBERGER IS TO BE COMMENDED FOR THIS BILL, BECAUSE IT IS AN EXCELLENT ATTEMPT TO ENCOURAGE RIVER CONSERVATION AND TO RETURN TO THE STATES AND MUNICIPALITIES GREATER CONTROL OVER THEIR OWN WATERWAYS. WHILE THIS COULD BE BILLED SOLELY AS A STATES' RIGHTS ISSUE, I WOULD LIKE TO SUGGEST THAT IT SIMPLY MAKES SENSE TO ALLOW THE LOCAL PEOPLE, THE PEOPLE WHO BEST KNOW A RIVER, TO HAVE SOME SAY OVER THE RIVER'S FUTURE. THROUGH ITS VERY MODEST STATE GRANT PROGRAM, ITS PROVISION WHICH ALLOWS THE STATES SOME SAY IN THE ISSUANCE OF FEDERAL PERMITS AND LICENSES AFFECTING CERTAIN RIVERS, AND ITS EFFORTS TO ENCOURAGE VOLUNTEERISM AND CLARIFY THE TAX TREATMENT OF CONSERVATION DONATIONS, I BELIEVE THE BILL PROVIDES STRONG INCENTIVES FOR A REINVIGORATED PROGRAM OF RIVER CONSERVATION THROUGHOUT THE COUNTRY. I COMMEND THIS BILL TO YOU, MR. CHAIRMAN, AS ONE THAT I BELIEVE FITS VERY NICELY WITH THE PHILOSOPHICAL APPROACH OF OUR PRESIDENT.

IN CLOSING, I WOULD LIKE TO RETURN TO THE WILDCAT RIVER, AND TO ASK THE MEMBERS OF THIS COMMITTEE FOR THEIR SUPPORT IN OUR EFFORTS TO PROTECT THIS RIVER, TO PRESERVE ITS SCENIC BEAUTY AND RECREATIONAL ATTRIBUTES FOR NOW AND THE FUTURE. MY BILL IS BROADLY SUPPORTED BY THE PEOPLE OF JACKSON, THE TOWN GOVERNMENT, AND SUCH GROUPS AS THE APPALACHIAN MOUNTAIN CLUB, THE AMERICAN RIVERS CONSERVATION COUNCIL, THE NATIONAL AUDUBON SOCIETY AND THE FRIENDS OF THE EARTH.

TO DATE, WE HAVE NEVER STUDIED A NEW HAMPSHIRE RIVER UNDER THE WILD AND SCENIC RIVER ACT. THIS IS UNFORTUNATE, BECAUSE WE HAVE SO MANY MILES OF OUTSTANDINGLY REMARKABLE WATERS THAT TRULY DESERVE PROTECTION. HOWEVER, THIS LEGISLATION PROVIDES US AN OPPORTUNITY TO STUDY ONE SUCH STRETCH OF WATER, THE WILDCAT RIVER, AND TO ENSURE THAT A BEAUTIFUL RIVER AND COMMUNITY WILL BE KEPT THAT WAY. THE WILDCAT RIVER IS AN OUTSTANDING EXAMPLE OF A KIND OF MOUNTAIN RIVER THAT IS UNIQUE TO NEW ENGLAND AND THAT SO FAR IS UNREPRESENTED IN THE NATIONAL WILD AND SCENIC RIVERS SYSTEM. THIS BILL WOULD PROTECT A SMALL PART OF NEW HAMPSHIRE'S HERITAGE AND SAVE AS PART OF OUR NATIONAL HERITAGE A RIVER THAT TRULY REPRESENTS A DISCRETE PHYSIOGRAPHIC REGION OF THE COUNTRY.

AGAIN, THANK YOU FOR ALLOWING ME AN OPPORTUNITY TO TESTIFY ON S. 2095. I HOPE TO BE ABLE TO WORK WITH YOU TO ENACT THIS LEGISLATION.

Senator WALLOP. Thank you, Gordon.

Of course, we will receive your colleague's statement when it is available to us. I appreciate your coming here this morning very much.

Senator HUMPHREY. My pleasure. Thank you.

Senator WALLOP. We have a colleague from the House, the Honorable Norman D'Amours from the First District of the State of New Hampshire. We welcome you.

## STATEMENT OF HON. NORMAN E. D'AMOURS, A U.S. REPRESENTATIVE FROM THE STATE OF NEW HAMPSHIRE

Mr. D'AMOURS. Thank you, Mr. Chairman. I thank you for the opportunity to testify here before you. I am going to be very brief. I will try not to consume more than a few minutes of this subcommittee's time.

Mr. Chairman, I am here obviously and of course in support of Senate 2095 which was introduced by Senators Humphrey and Rudman, to amend, as you just heard, the Wild and Scenic Rivers Act by designating the Wildcat River in Jackson, New Hampshire for study as a national wild and scenic river.

I would also like the subcommittee to know that on the very day this legislation was introduced in the Senate, I introduced similar legislation in the House, H.R. 4406 and that is now pending in the House and we think it will come to hearing in just a matter of a few weeks. These bills if passed, Mr. Chairman, will ensure that future generations will be able to experience the beauty of Jackson Falls. Now, I am not going to get into a description of the area of the river or the falls. That has been done very graphically and very well by Senator Humphrey, who just testified.

I would like to say though that I am confident that once a study is completed, the Wildcat River will be declared a wild and scenic river. It is totally within the bounds of the town of Jackson, New Hampshire, a relatively small community which is united to save Jackson Falls.

The citizens of Jackson speak with one voice when it comes to protecting and preserving the Jackson Falls. Living in such close proximity to the Falls, they understand their rights and responsibilities as protectors of our environment.

I deeply appreciate the commitment and the effort of the citizens of Jackson and the guidance they have given me on this issue. I know New Hampshire's Senators feel the same way. They are going to testify here before you today. They are here on behalf of the town of Jackson, as representatives of that town and I know this subcommittee will give them its undivided attention.

It would seem from what I have seen in the record that whatever opposition exists to this bill, whatever opposition may surface at this hearing will not address the specific question of whether or not we should protect the Wildcat Brook and the Jackson Falls, but will deal, rather, with the more ethereal question of whether any private rivers protection bills should be legislated as a matter of policy.

I cannot presume to influence this distinguished subcommittee as to its policy, but I hope that this subcommittee will take counsel from the people of New Hampshire and a united congressional delegation as to the importance of protecting and preserving this environmental treasure.

Mr. Chairman, the House is scheduling a hearing on my bill, H.R. 4406, on Tuesday, March 20, that is the Subcommittee on Public Lands and National Parks, which you, Mr. Chairman, well know is chaired by John Seiberling of Ohio. And I am confident having spoken with Chairman Seiberling that he is favorably disposed toward my bill and I look forward to close cooperation between our two chambers so that the citizens of Jackson can rest assured of the commitment of our Federal Government to honor local control and local initiative.

Once again, Mr. Chairman, thank you very much for your hospitality and for this opportunity to testify on this important matter.

[The prepared statement of Mr. D'Amours follows:]

TESTIMONY OF

HONORABLE NORMAN E. D'AMOURS

BEFORE THE

SUBCOMMITTEE ON PUBLIC LANDS AND RESERVED WATER

MARCH 6, 1984

MR. CHAIRMAN, MEMBERS OF THE COMMITTEE, I APPRECIATE THE OPPORTUNITY TO APPEAR BEFORE YOU IN SUPPORT OF S. 2095, INTRODUCED BY SENATORS HUMPHREY AND RUDMAN, TO AMEND THE WILD AND SCENIC RIVERS ACT BY DESIGNATING THE WILDCAT BROOK, JACKSON, NEW HAMPSHIRE, FOR STUDY AS A NATIONAL WILD AND SCENIC RIVER. AS YOU MAY KNOW, ON THE VERY DAY THIS LEGISLATION WAS INTRODUCED IN THE SENATE, I INTRODUCED SIMILAR LEGISLATION, H.R. 4406, WHICH IS NOW PENDING IN THE HOUSE.

I BELIEVE THESE BILLS, IF PASSED, WILL ENSURE THAT FUTURE GENERATIONS WILL BE ABLE TO EXPERIENCE THE BEAUTY OF JACKSON FALLS. I AM CONFIDENT THAT ONCE A STUDY IS COMPLETED, THE WILDCAT BROOK WILL BE DECLARED A WILD AND SCENIC RIVER. THE WILDCAT BROOK IS TOTALLY WITHIN THE BOUNDS OF THE TOWN OF JACKSON, A SMALL COMMUNITY WHICH HAS UNITED TO SAVE THE JACKSON FALLS. THE CITIZENS OF JACKSON SPEAK WITH ONE VOICE WHEN IT COMES TO PROTECTING AND PRESERVING THE JACKSON FALLS. LIVING IN SUCH CLOSE PROXIMITY TO THE JACKSON FALLS, THEY UNDERSTAND THEIR RIGHTS AND RESPONSIBILITIES AS PROTECTORS OF OUR ENVIRONMENT.

I DEEPLY APPRECIATE THE COMMITMENT AND EFFORT OF THE CITIZENS OF JACKSON AND THE GUIDANCE THEY HAVE GIVEN ME ON THIS ISSUE. I KNOW NEW HAMPSHIRE'S SENATORS FEEL THE SAME WAY. WE ARE STRONGLY UNITED IN THIS EFFORT TO PROTECT THE JACKSON FALLS. IT SEEMS THAT WHATEVER OPPOSITION TO THIS BILL MAY SURFACE AT THIS HEARING WILL NOT BE ADDRESSED TO THE SPECIFIC QUESTION OF WHETHER OR NOT WE SHOULD PROTECT THE WILDCAT BROOK AND THE JACKSON FALLS BUT WILL DEAL WITH THE MORE ETHEREAL QUESTION OF WHETHER ANY PRIVATE RIVERS PROTECTIONS BILLS

SHOULD BE LEGISLATED AS A MATTER OF POLICY. I CANNOT PRESUME TO INFLUENCE THIS DISTINGUISHED COMMITTEE AS TO ITS POLICY BUT I HOPE YOU WILL TAKE COUNSEL FROM THE PEOPLE OF NEW HAMPSHIRE AND A UNITED CONGRESSIONAL DELEGATION TO THE IMPORTANCE OF PROTECTING AND PRESERVING THIS ENVIRONMENTAL TREASURE.

THE HOUSE HAS SCHEDULED A HEARING ON MY BILL, H.R. 4406, ON TUESDAY, MARCH 20, 1984 BEFORE THE SUBCOMMITTEE ON PUBLIC LANDS AND NATIONAL PARKS, CHAIRED BY JOHN SEIBERLING OF OHIO. I AM CONFIDENT THAT CHAIRMAN SEIBERLING IS FAVORABLY DISPOSED TOWARD MY BILL AND I LOOK FORWARD TO CLOSE COOPERATION BETWEEN THE TWO CHAMBERS SO THAT THE CITIZENS OF JACKSON CAN REST ASSURED OF THE COMMITMENT OF THE FEDERAL GOVERNMENT TO HONOR LOCAL CONTROL AND LOCAL INITIATIVE.

ONCE AGAIN, I THANK THE CHAIRMAN FOR HIS CONCERN FOR THE PROTECTION OF THE JACKSON FALLS AND I LOOK FORWARD TO ASSISTING YOU IN ANY MANNER I CAN TO ENSURE THE PASSAGE OF THIS IMPORTANT LEGISLATION.

Senator WALLOP. Thank you, Congressman. I appreciate your taking the time to come over here and testify on this companion legislation.

Now, we begin with a panel of administration witnesses, Associate Chief Dale Robertson, U.S. Forest Service; and Deputy Director Mary Lou Grier, National Park Service.

I would ask you if you would to go down through the list of bills of interest to us and then we can ask you questions we have about each of them and you can be on your way and we will conduct the rest of the hearing.

Mr. ROBERTSON. Would you like for us to cover all bills?

Senator WALLOP. I think so. I think that is easier. If you will go ahead, Chief Robertson.

## STATEMENT OF F. DALE ROBERTSON, ASSOCIATE CHIEF, FOREST SERVICE, DEPARTMENT OF AGRICULTURE

Mr. ROBERTSON. Thank you, Mr. Chairman. We appreciate this opportunity to appear before this committee and comment on the four bills dealing with wild and scenic rivers.

S. 1084 would add eight rivers to the wild and scenic rivers system and amend the act in certain respects. The text of the bill was transmitted to the Congress by President Reagan on September 13, 1982. It was introduced upon request by Senator McClure. The Department of Agriculture supports enactment.

Title I would add eight new rivers to the National Wild and Scenic Rivers System. These rivers are the Clarks Fork of the Yellowstone River in Wyoming; the Elk River in Colorado; the Conejos River in Colorado; the Los Pinos River in Colorado; the Verde River in Arizona; the Au Sable River in Michigan; the Snake River in Wyoming; and the Piedra River in Colorado.

The Forest Service has completed the required studies of these eight rivers and has concluded that each qualified for addition to the National Wild and Scenic Rivers System.

In general, the administration prefers to exclude segments of rivers with significant amounts of private lands from designation so as to avoid the possibility of expensive land acquisitions. We believe that the recommended segments of the affected rivers will protect their scenic and natural beauty while minimizing the impact of designation on private lands.

There are two other provisions in title I of S. 1084. One would allow installation and operation of facilities or other activities in the Pere Marquette River in Michigan to control the sea lamprey, which is a parasite, which kills trout.

Another provision of title I would transfer lands administered by the Bureau of Land Management in the American River Corridor in California to the Forest Service in order to facilitate more efficient management of that river.

Title II deals with study rivers under section 5 of the act. The study requirement for Soldier Creek in Alabama would be eliminated, because the 1½-mile study segment does not possess the attributes generally associated with wild and scenic river candidates. Title II would also extend the statutory deadline to allow for the completion of several studies already underway.

Title III is a very important part of the bill, since it addresses one of the fundamental goals of the Administration, and that is to improve the overall management and administration of the Wild and Scenic Rivers System. Almost 5 years ago, a staff group from the Department of Agriculture and the Department of the Interior started working on possible amendments of the act. They addressed legal and management issues and opportunities that have arisen since the act was originally passed in 1968. The recommendations of that group formed the basis for the amendments offered in title III.

Title III would: Clarify the definition of the area encompassed by the boundaries of a designated river. Elminate the need to publish detailed river boundaries in the Federal Register by requiring only publication of availability of the legal descriptions.

Provide 3 years for the completion of a river management plan which will, among other things, examine alternatives to land acquisition as a means to protecting river values.

Require concurrence of the Federal land managing agency when rivers affecting Federal lands are proposed for inclusion in the national system by State designation pursuant to section 2(a)(ii) of the act.

Establish the legal boundaries of study rivers for purposes of section 7(b) of the act and the Surface Mining and Reclamation Act.

Establish the period during which a river has study status. Currently, a study river is withdrawn from mineral entry and water development while it is a study river. These protections continue for a period of 3 years from the time the study report has been transmitted to Congress. There is now some confusion as to what management activities are allowed if Congress does not take action within the 3 years. S. 1084 provides that study status would terminate if no action is taken by Congress within 3 years.

Permit more effective land acquisition through purchase and exchange;

Clarify the definition of public ownership to be fee title land for purposes of section 6(b) of the act.

Correct the baseline data in section 7 for determining potential impacts on the values of rivers from 1968 to the actual date of designation.

And, finally, it would encourage the donation of lands and easements to the Government and nonprofit organizations, such as private land trusts.

Mr. Chairman, since writing these amendments to title III, we have received several comments from various persons and organizations about these amendments. Congress has also passed related legislation involving many of these provisions as amendments to the National Trails System Act. We would like to work with the committee and its staff to update and clarify the proposed amendments to title III, making them more consistent with the National Trails System Act.

Finally, section 4 of the bill addresses the alternative method of putting rivers into the national system under section 2(a)(ii). That section now permits Governors to request State-designated rivers to be included in the national system by action of the Secretary of the

Department of the Interior. Title IV, if enacted, would increase the involvement of State legislatures in the section 2(a)(ii) process.

Senate bill 416, would designate a segment of the Illinois River and the Owyhee River in Oregon as components of the National Wild and Scenic Rivers System. The Department of Agriculture would administer the Illinois River and we support its designation.

The Department of Agriculture studied 88 miles of the Illinois River and sent the study report to Congress on October 13, 1978, recommending that 50.4 miles of the river be designated. The segment of the Illinois River proposed for designation flows through predominantly public lands within the Siskiyou National Forest and joins the existing Rogue Wild and Scenic River.

We believe that because of the high quality fisheries and scenic and recreation values associated with the Illinois River, it should be protected under the Wild and Scenic Rivers Act. The Department of Agriculture recommends that that portion of S. 416 pertaining to the Illinois River be enacted.

Senate bill 2095 would designate the Wildcat River in the State of New Hampshire for study. Of the approximately 10 miles of length proposed for study, only 3 miles are within the national forest boundary. We believe that the portion of Wildcat River within the boundary of the White Mountain National Forest is being adequately protected now.

Protection of the river outside the national forest boundary is appropriately a State responsibility. In view of this, we do not support S. 2095. If the State of New Hampshire passes legislation designating the Wildcat River, we believe that the process outlined in Section 2(a)(ii) of the Wild and Scenic Rivers Act would be the preferred method for including the Wildcat River in the National Wild and Scenic Rivers System and provide for State management of the lower portion of the river. However, we would cooperate with the State and manage that portion within the national forest boundary in a compatible manner.

The purposes of S. 1756 are to stimulate the conservation and protection of rivers by State and local governments and private landowners. We agree with the principles that river conservation and protection measures affecting State and private lands are best initiated and carried out at the State and local levels.

Many fine rivers and streams are important local resources but do not justify designation as components of the National Wild and Scenic Rivers System. For such rivers, we agree that the Federal Government should defer to the State and local government and, insofar as is practical, conduct its Federal functions in a compatible manner. While we agree with these principles we do not support all of the provisions of S. 1756 as the best way to accomplish the objectives.

In particular, we do not believe that a new Federal grants program as provided in sections 301 to 303 is consistent with the administration's efforts to reduce the overall Federal expenditures.

We basically support section 401 dealing with Volunteers in the National Forest Act and Volunteers in the National Parks Act and provide technical and material assistance to volunteers working with the State. We note that similar provisions were enacted in

Public Law 98-11 amending the National Trails Act and we would support this section if it is amended to conform with the Trails Act.

We are very concerned about section 501 of the bill, which is intended to assure Federal consistency with State river protection programs. The last sentence of section 501 would allow the State to veto any Federal license or permit for activities adversely affecting a State protected-river. This provision is somewhat similar to the requirements of section 7 of the Wild and Scenic Rivers Act, except that with section 501 the protection applies to State rivers and the compatability determination is made by individual States rather than the Secretary of Agriculture or the Secretary of the Interior. As written, we oppose section 501 because its veto provision is too broad and could potentially impede essential Federal interests including natural resource activities.

However, we do agree that the States should assume a greater role in protecting river resources thereby reducing Federal involvement in management, land acquisition and regulation of river use. The Federal Government should, to the extent practical, attempt to assure that its policies and actions are consistent with State goals. In large measure, the Federal/State coordination on federally sponsored or assisted projects occurs under provisions of existing laws and regulations, particularly under the National Environmental Policy Act.

Section 601 encourages the use of easements for protecting rivers and provides tax incentives for these purposes. This is very similar to section 207(i) which was enacted as part of the amendments to the National Trails System Act and we support this provision of the bill if amended to conform with the Trails Act.

Mr. Chairman, this concludes my statement, and I would be happy to answer any questions.

[The prepared statement of Mr. Robertson follows:]

STATEMENT
F. DALE ROBERTSON, ASSOCIATE CHIEF
FOREST SERVICE
UNITED STATES DEPARTMENT OF AGRICULTURE

Before the
Subcommittee on Public Lands and Reserved Waters
of the Senate Energy and Natural Resources Committee

Concerning S. 1084, S. 2095, S. 416, and S. 1756

March 6, 1984

MR. CHAIRMAN AND MEMBERS OF THE COMMITTEE:

We appreciate the opportunity to appear before the Committee and comment on four bills dealing with Wild and Scenic Rivers, S. 1084, S. 2095, S. 416, and S. 1756.

S. 1084

S. 1084 would add eight rivers to the Wild and Scenic Rivers System and amend the Act in certain respects. The text of the bill was transmitted to the Congress by President Reagan on September 13 1982; it was introduced upon request by Senator McClure. The Department of Agriculture supports enactment.

Title I would add eight new rivers to the National Wild and Scenic Rivers System. These rivers are:

(1) The Clarks Fork of the Yellowstone River, Wyoming--21.5 miles of the river in the Shoshone National Forest.

(2) The Elk River, Colorado--29 miles of the river in the Routt National Forest.

(3) The Conejos River, Colorado--36.8 miles of the river in the Rio Grande National Forest.

(4) The Los Pinos River, Colorado--54 miles of the river in the Weminuche Wilderness, San Juan National Forest.

(5) The Verde River, Arizona--39.5 miles of the river in the Prescott, Coconino, and Tonto National Forests.

(6) The Au Sable River, Michigan--23 miles of the river in the Huron-Manistee National Forest.

(7) The Snake River, Wyoming--13 miles of the river in the Bridger-Teton National Forest.

(8) The Piedra River, Colorado--28.4 miles of the river in the San Juan National Forest.

These eight rivers were all designated at various times by Congress for study. The Forest Service has completed the required studies and has concluded that each qualified at least in part for addition to the National Wild and Scenic Rivers System.

In general, the Administration prefers to exclude segments of rivers with significant amounts of private lands from designation so as to avoid the possibility of expensive land acquisitions. We believe the recommended segments of the affected rivers will protect their scenic and natural beauty while minimizing the impact of designation on private lands.

There are two other provisions in Title I of S. 1084. One would allow installation and operation of facilities or other activities in the Pere Marquette River in Michigan to control the lamprey eel, a parasite which kills trout.

Another provision of Title I would transfer lands administered by the Bureau of Land Management in the American River Corridor in California to the Forest Service to facilitate efficient management of that river corridor.

Title II of S. 1084 deals with study rivers under section 5 of the Act. The study requirement for Soldier Creek in Alabama is eliminated. The Department of the Interior has indicated that the 1-1/2-mile study segment does not possess the attributes generally associated with wild and scenic river candidates. Title II would also extend the statutory deadline to allow for the completion of several studies already underway.

Title III of S. 1084 is a very important part of the bill since it addresses one of the fundamental goals of the Administration--to improve management and administration of the Wild and Scenic Rivers System. Almost 5 years ago, a staff group from the Departments of Agriculture and the Interior started working on possible amendments of the Act. They addressed legal and management issues and opportunities that have arisen since the Act was originally passed in 1968. The recommendations of that group form the basis for the amendments offered in Title III.

Title III would:

-- Clarify the definition of the area encompassed by the boundaries of a designated river.

-- Eliminate the need to publish detailed river boundaries in the Federal Register by requiring only publication of availability of the legal descriptions.

-- Provide 3 years for completion of a river management plan which will, among other things, examine alternatives to land acquisition as a means to protecting river values.

-- Require concurrence of the Federal land managing agency when rivers affecting Federal lands are proposed for inclusion in the National System by State designation pursuant to section 2(a)(ii) of the Act.

-- Establish the legal boundaries of study rivers for purposes of section 7(b) of the Act and the Surface Mining and Reclamation Act. Currently, there is some question as to the width of a study boundary.

-- Establish the period during which a river has study status. Currently, a study river is withdrawn from mineral entry and water development potential while it is a study river. These protections continue for a period of 3 years from the time the study report has been transmitted to Congress. There is now confusion as to what management activities are allowed if Congress does not take action within the 3 years. S. 1084 provides that study status shall terminate if no action is taken within the 3 years.

-- Permit more effective land acquisition through purchase and exchange.

-- Clarify the definition of public ownership to be fee title land for purposes of section 6(b) of the Act.

-- Correct the baseline date in section 7 for determining potential impacts on the values of rivers from 1968 to the actual date of designation.

-- Encourage the donation of lands and easements to the Government and nonprofit organizations such as private land trusts.

Since writing these amendments to Title III, we have received comments from various persons and organizations about the amendments to Title III, and Congress passed related legislation such as the amendments to the National Trails System Act (Public Law 98-11). We would like to work with the Committee and its staff to update and clarify the proposed amendments to Title III making them more consistent with the National Trails System Act.

Finally, Title IV of the bill addresses the alternative method of putting rivers into the National System under section 2(a)(ii). That section now permits Governors to request that State designated rivers be included in the National System by action of the Secretary of the Interior. Title IV, if enacted, would increase the involvement of State legislatures in the section 2(a)(ii) process.

S. 416

S. 416 would designate a segment of the Illinois River and the Owyhee River in Oregon as components of the National Wild and Scenic Rivers System.

The Department of Agriculture would administer the Illinois River, and we support its designation.

The Owyhee River would be administered by the Secretary of the Interior, thus we defer to the Department of the Interior for comment on this river.

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The Department of Agriculture studied 88 miles of the Illinois River, and sent the study report to Congress on October 13, 1978, recommending that 50.4 miles of the river be designated. The proposed designation includes within its boundaries about 15,200 acres. Of this, 13,926 acres are National Forest System lands, 1,146 acres are private, and 128 are other public lands. The segment of the Illinois River proposed for designation flows through predominately public lands within the Siskiyou National Forest and joins the existing Rogue Wild and Scenic River. Most of the privately owned land (670 acres) is located in the 3.8-mile recreation classified section. The use of these lands is consistent with the management objectives for the river and, therefore, does not require Federal acquisition. Since this segment of river links the wild and scenic river segments of the Illinois River to the Rogue River, we recommend this segment be designated to simplify on-the-ground management. The remaining private lands are divided with 128 acres in the middle segment, which qualifies for wild classification, and 348 acres in the upper segment which qualifies for scenic designation.

The detailed management plan required for the river area, if designated, will specifically explore alternatives for protection of the river values from adverse development on private lands by means other than the acquisition of lands or interest in lands.

Designation of the river would reduce the potential annual harvest cut of timber on the Siskiyou National Forest by less than 1 million board feet.

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We believe that because of the high quality fisheries, scenic, and recreation values associated with the Illinois River, it should be protected under the Wild and Scenic Rivers Act. The Department of Agriculture recommends that the portion of S. 416 pertaining to the Illinois River be enacted.

S. 2095

S. 2095 would designate the Wildcat River in the State of New Hampshire for study as a potential candidate for the National Wild and Scenic Rivers System.

Of the approximately 10 miles of length proposed for study, only 3 miles are within the National Forest boundary. We believe that the values of the portion within the boundary of the White Mountain National Forest are being protected. Protection of the river outside the National Forest boundary is more appropriately a State responsibility. In view of this, we do not support S. 2095. If the State of New Hampshire passes legislation designating the Wildcat River as a wild, scenic or recreational river, utilization of the process outlined in section 2(a)(ii) of the Wild and Scenic Rivers Act would be the preferred method for including the Wildcat River in the National Wild and Scenic Rivers System, and providing for State management of the lower portion of the river. We would cooperate with the State and manage the portion within the National Forest boundary in a compatible manner.

S. 1756

The purposes of S. 1756 are to stimulate the conservation and protection of rivers by State and local governments, and private landowners. The bill would establish a grants program to assist and encourage State and local governments,

or qualified private organizations in the conservation and management of rivers. It establishes guidelines for State eligibility for the grants program, and prescribes a formula for allocation of the grants to eligible States. The bill encourages the use of volunteers, and provides authority for the appropriate Secretary to make available Federal facilities, equipment, tools, and technical assistance to volunteers and volunteer organizations which are assisting in conserving, maintaining, and managing the protected rivers. The bill includes provision to assure Federal consistency with State river protection programs, encourages the use of easements for protecting rivers and would provide tax incentives for those purposes.

We agree with the principle that effective river conservation measures affecting State and private lands are best initiated and carried out at the State and local levels. Many fine rivers and streams are important local resources, but do not justify designation as components of the National Wild and Scenic Rivers System. For such rivers, we agree that the Federal Government should defer to the State and local governments and, insofar as practical, conduct its Federal functions in a compatible manner. While we agree with these principles, we do not support all of the provisions of S. 1756 as the way to accomplish the objectives.

In particular, we do not believe that a new Federal grants program, as provided in sections 301-303, is consistent with the Administration's efforts to reduce Federal expenditures.

Section 401 titled "Citizen Involvement" provides various incentives to volunteers and volunteer organizations to engage in river protection activities. The section authorizes the use of the Volunteers in the Forests Act and Volunteers in the Parks Act, and allows the Federal agencies to give technical and material assistance to volunteers and volunteer organizations. We support this concept, except that the Volunteers Act should apply only to Federal lands. We note that similar provisions were enacted in Public Law 98-11 amending the National Trails System Act. We would support this section if amended to conform with the Trails Act.

Section 501 of the bill is intended to assure Federal consistency with State river protection programs. The last sentence of section 501 would allow the State to veto any Federal license or permit for activities adversely affecting a State protected river. This provision is, to a degree, analogous to the requirements of section 7 of the Wild and Scenic Rivers Act except that, with section 501, the protection applies to State rivers and the compatibility determination is made by the individual State rather than the Secretary of Agriculture or the Interior. As written, we oppose section 501 because its veto provision is too broad and could potentially impede essential Federal interests including natural resource activities.

However, we do agree that the States should assume a greater role in protecting river resources thereby reducing Federal involvement in management, land acquisition, and regulation. The Federal Government should, to the extent practicable, attempt to assure that its policies and actions are consistent with State goals. In large measure, this State/Federal coordination on federally sponsored or assisted projects occurs under provisions of existing laws and regulation, particularly the National Environmental Policy Act.

Section 601 encourages the use of easements for protecting rivers and provides tax incentives for those purposes. The basic language of section 601 is similar to, but broader than that recently enacted in section 207(i) of Public Law 98-11 which amended the National Trails System Act. We support this provision of the bill if amended to conform with the Trails Act.

Mr. Chairman, this concludes my prepared statement, I would be happy to answer any questions. I also would like to say we would be willing to work with the Committee and its staff on wild and scenic rivers legislation.

Senator WALLOP. Thank you very much.

Now we hear from Mary Lou Grier, Deputy Director, National Park Service. Welcome back.

## STATEMENT OF MARY LOU GRIER, DEPUTY DIRECTOR, NATIONAL PARK SERVICE, DEPARTMENT OF THE INTERIOR

Ms. GRIER. Thank you, Mr. Chairman. It is good to be here and I appreciate this opportunity. I will address the bills in the order listed in your letter of invitation to the hearing.

We support S. 1084. We believe the amendments to the Wild and Scenic Rivers Act will assist us in managing those components of the system under our administration. Other provisions apply specifically to Forest Service concerns and we defer to the Forest Service as to those provisions.

With regard to S. 2095, this bill designates the Wildcat River—also called Wildcat Brook—in New Hampshire for study as a potential component of the national wild and scenic rivers systems. We identified the Wildcat Brook in New Hampshire in the 1982 nationwide rivers inventory. It found the river from its headwaters to the confluence with the Ellis River to be a regionally significant whitewater stream possessing class IV and class V rapids with easy access. We noted that this 10-mile river is rated as one of the five best whitewater rivers in New England.

Inasmuch as the first 3 or 4 miles of the stream are within the boundaries of the White Mountain National Forest, we defer to the views of the Forest Service as to the enactment of that bill.

S. 416 designates segments of two rivers in Oregon as components of the national system, the Illinois to be administered by the Secretary of Agriculture and the Owyhee to be administered by the Department of the Interior. We defer to the views of Agriculture on the Illinois.

We support the designation of the Owyhee as a component of the national system, if amended to delete the 14-mile stretch from China Gulch to Crooked Creek which was previously identified as suitable for State administration. We completed a study of this river in 1979 and sent to the Congress a report and draft legislation to designate the river in that same year. It recommended the designation of 178 miles of the river in the States of Idaho and Oregon.

It also recommended that the State of Oregon administer a 14-mile stretch from China Gulch to Crooked Creek. Virtually all of the private lands along the river in Oregon are within this 14-mile segment, and we wish to avoid Federal acquisition of these lands.

Basically we have done no studies in the interim that would indicate that our initial recommendation does not still stand. We support this aspect of the bill, provided that particular amendment is included.

In 1976 we did some cost estimates for the Oregon portion of the river without the 14-mile segment, which indicated land acquisition would cost roughly $64,000; development $102,000; and annual operation and maintenance $25,300. These figures have not been updated since 1976.

With regard to S. 1756, this bill authorizes and directs the Secretary of the Interior to make 50 percent grants to States for conser-

vation of natural values of rivers and of the lands adjacent to rivers, developing river management plans or regulations, or for innovative projects dealing with methods of river conservation. Appropriations for such are limited to $5 million per year.

For a State to be eligible for such grants, it must have an established State program or develop an assessment of the river resources of that State. If no such assessment has been done, the bill authorizes and directs the Secretary to make 75-percent grants to a State for making such an assessment. Additional appropriations of $2 million per year are authorized for assessment grants.

In addition, the bill authorizes the Secretaries of the Interior and Agriculture to use their volunteer authorities in aid of conservation, maintenance, and management of rivers under their jurisdiction and on non-Federal lands. It prohibits Federal licenses for activities on State program rivers unless the State agrees that the activity will not adversely affect river values. Finally, it authorizes landowners to donate interests in real property to conservation organizations for the purpose of conserving or enhancing rivers included in State, local, or Federal river programs.

We applaud the intent of S. 1756. We believe the primary adverse effects on the Nation's rivers are caused by increasing and unplanned commercial and residential development. State and local governments have the power to guide such development or curtail it, and we believe they should be encouraged to do so.

While we support its objectives, however, we cannot recommend enactment of the bill. As you know, Mr. Chairman, the fiscal year 1985 budget does not include funding for the National Park Service grant programs that are already on the books. At a time when the administration and the Congress are attempting to reduce Federal deficits, we cannot recommend the establishment of yet another grant program.

We suggest that other methods for States and local governments to develop river conservation programs should be explored.

Section 401 authorizes the Secretaries of both departments to assist with volunteers in conserving, maintaining, and managing the rivers identified in the State and local as well as Federal programs. We believe this authority should be limited to Federal lands and recommend that this section be amended to conform with the provisions applicable to the national trails system that were enacted in Public Law 98–11.

Section 501 requires State concurrence in any Federal license on a river that is part of a State conservation program. We do not oppose the idea of some measure of consistency between State river conservation programs and Federal activities, but we cannot support the State veto provisions of this bill.

We would like to see the States assume a greater role in the protection of river resources. If there are Federal impediments to such an expanded role, we would be pleased to work with the Committee to identify and reduce such impediments. The State veto language of section 501 is too broad, however.

This concludes my prepared remarks, Mr. Chairman. I would be happy to answer your questions.

[The prepared statement of Ms. Grier follows:]

STATEMENT OF MARY LOU GRIER, DEPUTY DIRECTOR, NATIONAL PARK SERVICE, DEPARTMENT OF THE INTERIOR, BEFORE THE SUBCOMMITTEE ON PUBLIC LANDS AND RESERVED WATER, SENATE COMMITTEE ON ENERGY AND NATURAL RESOURCES, CONCERNING S. 1084, S. 2095, AND S. 416, BILLS TO AMEND THE WILD AND SCENIC RIVERS ACT, AND S. 1756, A BILL TO PROVIDE ASSISTANCE TO STATE AND LOCAL GOVERNMENTS AND PRIVATE INTERESTS FOR CONSERVATION OF CERTAIN RIVERS.

MARCH 6, 1984

MR. CHAIRMAN, I APPRECIATE THE OPPORTUNITY TO PROVIDE YOUR SUBCOMMITTEE WITH THE VIEWS OF THE DEPARTMENT OF THE INTERIOR ON THESE BILLS. MY TESTIMONY WILL ADDRESS THE BILLS IN THE SAME ORDER AS MENTIONED IN THE CHAIRMAN'S LETTER OF INVITATION TO THE HEARING.

S. 1084. THIS BILL CONSISTS OF FOUR TITLES: TITLE I AFFECTS 2 EXISTING COMPONENTS AND DESIGNATES 8 NEW COMPONENTS OF THE WILD AND SCENIC RIVERS SYSTEM; TITLE II ELIMINATES 1 RIVER PREVIOUSLY DESIGNATED FOR STUDY, PROVIDES REPORTING DATES FOR 6 RIVERS PREVIOUSLY DESIGNATED FOR STUDY, AND AUTHORIZES THE APPROPRIATION OF SUCH SUMS AS MAY BE NECESSARY TO CARRY OUT CERTAIN RIVER STUDIES; TITLE III AMENDS PROVISIONS OF THE WILD AND SCENIC RIVERS ACT APPLICABLE TO DEVELOPMENT PLANS, RIVER BOUNDARIES, STATUS OF STUDY RIVERS, AND INSERTS NEW AUTHORITY TO SELL OR EXCHANGE FEDERAL LANDS WITHIN OR ADJACENT TO THE BOUNDARIES OF ANY RIVER COMPONENT; AND TITLE IV ADDRESSES THE ALTERNATIVE METHOD BY WHICH STATE-ADMINISTERED RIVERS MAY BE ADDED TO THE WILD AND SCENIC RIVERS SYSTEM.

WE SUPPORT THE ENACTMENT OF S. 1084. WE BELIEVE THE AMENDMENTS TO THE WILD AND SCENIC RIVERS ACT WILL ASSIST US IN MANAGING THOSE COMPONENTS OF THE SYSTEM UNDER OUR ADMINISTRATION. OTHER PROVISIONS APPLY SPECIFICALLY TO FOREST SERVICE CONCERNS, AND WE DEFER TO THE FOREST SERVICE AS TO THOSE PROVISIONS.

S. 2095. THIS BILL DESIGNATES THE WILDCAT RIVER (ALSO CALLED WILDCAT BROOK) IN NEW HAMPSHIRE FOR STUDY AS A POTENTIAL COMPONENT OF THE NATIONAL WILD AND SCENIC RIVERS SYSTEM. THE NATIONAL PARK SERVICE IDENTIFIED WILDCAT BROOK IN NEW HAMPSHIRE IN THE 1982 NATIONWIDE RIVERS INVENTORY. OUR INVENTORY FOUND THE RIVER FROM ITS HEADWATERS TO THE CONFLUENCE WITH THE ELLIS RIVER TO BE A REGIONALLY SIGNIFICANT WHITEWATER STREAM POSSESSING CLASS IV AND V RAPIDS, WITH EASY ACCESS. WE NOTED THAT THIS 10-MILE RIVER HAS BEEN RATED AS ONE OF THE FIVE BEST WHITEWATER RIVERS IN NEW ENGLAND.

INASMUCH AS THE FIRST 3 OR 4 MILES OF THE STREAM ARE WITHIN THE BOUNDARIES OF THE WHITE MOUNTAIN NATIONAL FOREST, WE DEFER TO THE VIEWS OF THE FOREST SERVICE AS TO THE ENACTMENT OF S. 2095.

S. 416. THIS BILL DESIGNATES SEGMENTS OF 2 RIVERS IN OREGON AS COMPONENTS OF THE NATIONAL SYSTEM: THE ILLINOIS, TO BE ADMINISTERED BY THE SECRETARY OF AGRICULTURE, AND THE OWYHEE, TO BE ADMINISTERED BY THIS DEPARTMENT.

WE DEFER TO THE VIEWS OF THE DEPARTMENT OF AGRICULTURE WITH RESPECT TO THE DESIGNATION OF THE ILLINOIS RIVER. WE SUPPORT THE DESIGNATION OF THE OWYHEE AS A COMPONENT OF THE NATIONAL SYSTEM, IF AMENDED TO DELETE THE 14-MILE STRETCH FROM CHINA GULCH TO CROOKED CREEK PREVIOUSLY IDENTIFIED AS SUITABLE FOR STATE ADMINISTRATION.

THE NATIONAL PARK SERVICE COMPLETED A STUDY OF THE OWYHEE RIVER IN 1979, AND IN OCTOBER 1979 A REPORT AND DRAFT LEGISLATION TO DESIGNATE THE RIVER WERE TRANSMITTED TO THE CONGRESS. THE 1979 REPORT RECOMMENDED DESIGNATION OF

178 MILES IN THE STATES OF IDAHO AND OREGON. IT ALSO RECOMMENDED THAT THE STATE OF OREGON ADMINISTER A 14-MILE STRETCH FROM CHINA GULCH TO CROOKED CREEK IN OREGON. VIRTUALLY ALL THE PRIVATE LANDS ALONG THE RIVER IN OREGON ARE WITHIN THIS 14-MILE SEGMENT, AND WE WISH TO AVOID FEDERAL ACQUISITION OF THESE LANDS.

S. 416 WOULD DESIGNATE 126 MILES OF RIVER IN OREGON, INCLUDING THE 14-MILE SEGMENT PREVIOUSLY IDENTIFIED FOR STATE ADMINISTRATION, AS A COMPONENT OF THE NATIONAL SYSTEM FOR ADMINISTRATION BY THIS DEPARTMENT. WE HAVE DONE NO STUDIES THAT WOULD CALL INTO QUESTION THE DEPARTMENT'S 1979 DETERMINATION THAT THE OWYHEE IS SUITABLE FOR DESIGNATION. WE THEREFORE SUPPORT THIS ASPECT OF THE BILL, PROVIDED THE BILL IS AMENDED TO EXCLUDE THE 14-MILE SEGMENT IDENTIFIED IN 1979 FOR STATE ADMINISTRATION. IN 1976, COST ESTIMATES FOR THE OREGON PORTION OF THE RIVER EXCLUDING THE 14-MILE SEGMENT, WERE AS FOLLOWS:

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|---|---|
| LAND ACQUISITION: | $64,000 |
| DEVELOPMENT: | $102,000 |
| ANNUAL OPERATION AND MAINTENANCE: | $25,300 |

WE HAVE NOT UPDATED THESE COSTS.

S. 1756. THIS BILL AUTHORIZES AND DIRECTS THE SECRETARY OF THE INTERIOR TO MAKE 50 PERCENT GRANTS TO STATES FOR CONSERVATION OF NATURAL VALUES OF RIVERS, CONSERVATION OF LANDS ADJACENT TO RIVERS, DEVELOPING RIVER MANAGEMENT PLANS OR REGULATIONS, OR FOR INNOVATIVE METHODS FOR RIVER CONSERVATION. APPROPRIATIONS FOR SUCH GRANTS ARE LIMITED TO $5 MILLION PER YEAR.

FOR A STATE TO BE ELIGIBLE FOR SUCH GRANTS, IT MUST HAVE AN ESTABLISHED STATE PROGRAM OR DEVELOPED AN ASSESSMENT OF THE RIVER RESOURCES OF THAT STATE. IF NO SUCH ASSESSMENT HAS BEEN DONE, THE BILL AUTHORIZES AND DIRECTS THE SECRETARY TO MAKE 75 PERCENT GRANTS TO A STATE FOR MAKING AN ASSESSMENT. ADDITIONAL APPROPRIATIONS OF $2 MILLION PER YEAR ARE AUTHORIZED FOR ASSESSMENT GRANTS.

THE BILL AUTHORIZES THE SECRETARIES OF THE INTERIOR AND AGRICULTURE TO USE THEIR VOLUNTEER AUTHORITIES IN AID OF CONSERVATION, MAINTENANCE, AND MANAGEMENT OF RIVERS UNDER THEIR JURISDICTION AND ON NON-FEDERAL RIVERS. THE BILL ALSO PROHIBITS FEDERAL LICENSES FOR ACTIVITIES ON STATE PROGRAM RIVERS UNLESS THE STATE AGREES THAT THE ACTIVITY WILL NOT ADVERSELY AFFECT RIVER VALUES, AND FINALLY, IT AUTHORIZES LANDOWNERS TO DONATE INTERESTS IN REAL PROPERTY TO CONSERVATION ORGANIZATIONS FOR THE PURPOSE OF CONSERVING OR ENHANCING RIVERS INCLUDED IN STATE, LOCAL, OR FEDERAL RIVER PROGRAMS. A "STATE PROGRAM" IS DEFINED IN THE BILL AS A SYSTEM OF RIVER SEGMENTS THAT IS PROVIDED WITH SPECIAL PROTECTION FROM WATER PROJECTS AND OTHER ADVERSE DEVELOPMENTS AND MANAGED FOR PRESERVATION OF ITS VALUES.

WE APPLAUD THE INTENT OF S. 1756. WE BELIEVE THE PRIMARY ADVERSE EFFECTS ON THE NATION'S RIVERS ARE CAUSED BY INCREASING AND UNPLANNED COMMERCIAL AND RESIDENTIAL DEVELOPMENT. STATE AND LOCAL GOVERNMENTS HAVE THE POWER TO GUIDE SUCH DEVELOPMENT OR CURTAIL IT, AND WE BELIEVE THEY SHOULD BE ENCOURAGED TO DO SO.

WHILE WE SUPPORT ITS OBJECTIVES, HOWEVER, WE CANNOT RECOMMEND ENACTMENT OF THE BILL. AS YOU KNOW MR. CHAIRMAN, THE FY 85 BUDGET DOES NOT INCLUDE FUNDING

FOR THE NATIONAL PARK SERVICE GRANT PROGRAMS THAT ARE ALREADY ON THE BOOKS. AT A TIME WHEN THE ADMINISTRATION AND THE CONGRESS ARE ATTEMPTING TO REDUCE FEDERAL DEFICITS, WE CANNOT RECOMMEND THE ESTABLISHMENT OF YET ANOTHER GRANT PROGRAM. WE SUGGEST THAT OTHER METHODS FOR STATES AND LOCAL GOVERNMENTS TO DEVELOP RIVER CONSERVATION PROGRAMS SHOULD BE EXPLORED.

SECTION 401 AUTHORIZES THE SECRETARIES OF THE INTERIOR AND AGRICULTURE TO ASSIST VOLUNTEERS IN CONSERVING, MAINTAINING, AND MANAGING RIVERS IDENTIFIED IN STATE AND LOCAL AS WELL AS FEDERAL PROGRAMS. WE BELIEVE THIS AUTHORITY SHOULD BE LIMITED TO FEDERAL LANDS AND RECOMMEND THAT THIS SECTION BE AMENDED TO CONFORM WITH SIMILAR LANGUAGE ADOPTED IN PUBLIC LAW 98-11, AMENDING THE NATIONAL TRAILS SYSTEM ACT.

SECTION 501 REQUIRES STATE CONCURRENCE IN ANY FEDERAL LICENSE ON A RIVER THAT IS PART OF A STATE CONSERVATION PROGRAM. WE DO NOT OPPOSE THE IDEA OF SOME MEASURE OF CONSISTENCY BETWEEN STATE RIVER CONSERVATION PROGRAMS AND FEDERAL ACTIVITIES, BUT WE CANNOT SUPPORT THE STATE VETO PROVISIONS OF THIS BILL.

WE WOULD LIKE TO SEE THE STATES ASSURE A GREATER ROLE IN THE PROTECTION OF RIVER RESOURCES. IF THERE ARE FEDERAL IMPEDEMENTS TO SUCH AN EXPANDED ROLE, WE WOULD BE PLEASED TO WORK WITH THE COMMITTEE TO IDENTIFY AND REDUCE SUCH IMPEDEMENTS. THE STATE VETO LANGUAGE OF SECTION 501 IS TOO BROAD, HOWEVER.

THIS CONCLUDES MY PREPARED REMARKS MR. CHAIRMAN. I WOULD BE PLEASED TO RESPOND TO YOUR QUESTIONS.

Senator WALLOP. Thank you, Director Grier.

I would ask you both with regard to the administration's reservations or opposition to the State veto provisions, if the administration sees commerce cause constitutional problems by disregarding what is a matter of policy, is not the case that there might be some serious Congressional law preservation by the States having veto power over a Federal project that might involve commerce in more than one State in a water project?

Ms. GRIER. I think that is a reasonable concern.

Senator WALLOP. I would appreciate it if you would ask your legal staff in each of your departments if that is something that just occurs to me or is it something that should occur to the legal minds. Whatever we do, I do not think we want to discredit all of the action on the bill with a constitutional problem that we need not get into.

Director Grier, do you have any idea what we are talking about in terms of acres or numbers of inholdings on the 14-mile segment of the Owyhee?

Ms. GRIER. I can get that for you, Mr. Chairman.

Senator WALLOP. I am sorry, the Illinois, the one that you identified from China Gulch to Crooked Creek and the land acquisition cost is up to $64,000.

Mr. GRIER. Right.

Senator WALLOP. I just wondered what we are talking about in terms of acreage and numbers we are withholding.

Ms. GRIER. I think that is roughly 160 miles and that was within the 178 miles that we recommended.

Senator WALLOP. That was the entire stretch.

Ms. GRIER. Omitting the 14-mile segment, so that would be 164 miles of the river, most of which, I would say 90 percent, is under BLM administration now.

Senator WALLOP. So that is relatively strong. What are we talking about in the 14-mile stretch?

Ms. GRIER. 4,480 acres of private land on the 14-mile stretch.

Senator WALLOP. Is that characterized by a number of small holdings or larger ones? Can you tell me something about the nature of it?

Ms. GRIER. We will find it and supply it for the record, Mr. Chairman.

[The information follows:]

Field personnel of the Bureau of Land Management estimate that the 4,480 acres of private lands within the 14-mile stretch of the Owyhee proposes for State administration consist of about six ownerships.

Senator WALLOP. I would appreciate it. It makes some difference in how you go about dealing with that in some instances. You might be able to get donations from private land owners that would eliminate the acquisition if it was fair.

Ms. GRIER. The State has a rivers conservation program, the scenic waterways program and I believe when the river was initially studied they were amenable to omission of that 14-mile segment.

Senator WALLOP. Chief Robertson, let me ask you, in S. 1084 the provision in title I that you referred to, that would allow installation in operational facilities or other activities in the Pere Mar-

quette river to control lamprey eel identified as a parasite that kills trout and one of the problems that I have with the withdrawal from management, whether it is in rivers or wilderness area or anything else, is just that kind of a thing. I wonder if you could today or if not today at least for the record, speak to the department's views. Should we make that generic rather than just to that segment of the Pere Marquette for the reason that disease problems and parasite problems and other kinds of problems develop in these designated stretches of river and it is a long process to come to Congress and get permission through enactment of legislation to go back and deal with the problem, which may not be all that significant when identified, but by the time we get done, it might be quite significant. It just seems to me that that kind of management ought not to be eliminated in order to make the values which create the wild and scenic rivers in the first place germane.

Mr. ROBERTSON. Mr. Chairman, we would be happy to work with the committee to see what we can do to make this more of a generic amendment. Because you always have a few of these situations that come up and you never know what they are, in advance, we do need some flexibility to deal with specific problems, assuming that it is properly controlled.

Senator WALLOP. In today's world with few exceptions, there may be some rivers that are designated that have no reach for the rest of the management of the land, but probably not all that many by the time fishing and access are permitted and other things. It just seems to me that you might want to consider the flexibility in dealing with those things as you think they can be controlled, without coming to Congress each time problems are identified.

Mr. ROBERTSON. I think that is a very worthy objective.

Senator WALLOP. To your knowledge would the National Park Service have any problems with that?

Ms. GRIER. I do not see any problems with that, no, sir.

[Subsequent to the hearing Ms. Grier submitted the following:]

United States Department of the Interior

NATIONAL PARK SERVICE
WASHINGTON, D.C. 20240

IN REPLY REFER TO:

MAR 16 1984

Honorable Malcolm Wallop
Chairman, Subcommittee on Public
Lands and Reserved Water
Committee on Energy and Natural
Resources
United States Senate
Washington, D.C. 20510

Dear Senator Wallop:

At the hearing March 6, before your Subcommittee on S. 1756, a bill to provide assistance to State and local governments and private interests for conservation of certain rivers, the Department of the Interior witness was requested to provide for the hearing record an opinion from the Office of the Solicitor as to the constitutionality of section 501 of the bill. That section requires the concurrence of a State in the issuance of any Federal license for a project on a river that is part of a State river conservation program.

We have requested the Office of the Solicitor to provide its opinion on this issue, and we will forward that opinion to you when it is received.

Sincerely,

ACTING Mary Lou Grier

Director

Senator WALLOP. Thank you both very much for your testimony this morning and taking the time to give the administration's position.

Now we have a panel on S. 1084 and I ask you all to come to the table together. Hope Babcock, deputy counsel, National Audubon Society, Washington, DC; David Conrad, Friends of the Earth, Washington; Joni Bush, Sierra Club of Phoenix; Bart Koehler, Wyoming Outdoor Council, Cheyenne, WY; Sue Pemberten, Sierra Club of Lansing, MI; Larry Mehlaff, Colorado Open Space Council from Denver; and Chris Brown, the American Rivers Conservation Council of Washington.

Hope, why don't you lead off.

## STATEMENT OF HOPE BABCOCK, DEPUTY COUNSEL, NATIONAL AUDUBON SOCIETY, ON S. 1084

Ms. BABCOCK. Fine, I would be delighted to start. I guess for those who aren't here right now, perhaps if they could submit their statements for the record.

Senator WALLOP. By all means. Let me reiterate that the record will remain open, as stated, and we would welcome any testimony.

Ms. BABCOCK. Thank you. Good morning, Mr. Chairman. I would like to take advantage of trying to summarize my written testimony and ask that it be put in full into the record.

Audubon is one of the largest and oldest nonprofit conservation organizations in the country with over one-half million members. Chief among our goals is to make public policy responsive to the need to use our Nation's water resources wisely and to protect riparian and aquatic habitat. I am pleased to be here today to discuss the plight of our wild and scenic river system and the legislation pending before this subcommittee to amend the Wild and Scenic Rivers Act.

Our country's wild rivers are in trouble and the prognosis is not good. In the lower 48 States, less than .2 percent of America's millions of miles of streams are protected under the wild and scenic rivers system. While few dispute the recreational and wildlife value of wild rivers and their adjacent lands, rivers continue to succumb to development pressure. Therefore, we welcome your hearing on this vitally important topic.

Let me now turn to S. 1084. We are pleased that the administration has turned its attention to the plight of our rivers and has proposed the addition of segments of eight rivers to our national wild and scenic system. S. 1084 also contains several positive amendments to the management provisions of the act, such as requiring the preparation of comprehensive and binding management plans for rivers in the system and improving the ability of the Secretary of the Interior to acquire lands in the designation corridor.

We are also pleased at the addition of language to the act clarifying the status of donated acreage under the general revenue code.

However, our enthusiasm for the bill is tempered by concern over other proposed substantive amendments to the statute which we believe if enacted into law will impair the act's effectiveness at a time when efforts should be made in the opposite direction for the reasons outlined earlier in my testimony. My written testimony

does address six areas of concern with S. 1084, but given the time constraints I would like to reduce that list to four for my appearance here today.

First, we are disappointed that the administration has only proposed designation for 29 percent of the acreage recommended by the Federal land management agency. S. 1084 strips from that recommended acreage river segments that do not flow through our national forests. Lands in the national forest system already receive significant protection. Nothing in the statute provides a basis for limiting the scope of protection to acreage in those lands in our public land system. We urge this committee to expand the designated river mileage for these eight rivers so that it corresponds to the original recommendations.

Second, proposed section 305 would amend section 4(c) of the act to authorize Federal agencies with jurisdiction over a mere 5 percent of the lands within a recommended wild and scenic designation corridor to concur in the wild and scenic recommendation by the Secretary of the Interior. Concurrence under these circumstances amounts to giving these agencies with only minimal interest in the affected acreage a veto over additions to the Federal wild and scenic rivers system.

We believe that any concerns an agency may have with respect to a given designation can be accommodated in the comment phase of the designation process. Designating rivers is already a torturous enough process without introducing this additional hurdle. We therefore recommend that section 305 be deleted from S. 1084.

Third, we strongly oppose section 307 of the bill, which would amend section 5 of the act to terminate automatically the study status for rivers which are not added to the national system by the end of their study period. Such language is comparable to hard release language in the wilderness context, which as you know we oppose. Such a sunset provision ignores the reality of river designation.

Since 1980 not a single river has been added to the national wild and scenic river system, although legislation to do this has been pending in the 97th and 98th Congress. Since 1979, 18 rivers have reached the end of their study period with respect to executive branch recommendations pending to declare them wild and scenic without Congress taking action.

Unless the procedures for designating rivers are exceedingly streamlined, for example, providing for automatic designation of a river at the end of its study period, unless a contrary measure is acted on by Congress, shifting the burden of proof here, or the study period is extended considerably, perhaps from 3 to 10 years, which would be a more realistic period within which to achieve designation. Retention of this provision assures that rivers will not be designated.

Retention of this provision alone is sufficient to make us oppose the bill. Therefore, we recommend deletion of section 307.

Fourth, we oppose sections 401(a) and (b), which are proposed as amendments to section 2(a)(ii) of the statute. Section 2(a)(ii) was clearly included in the act to broaden the methods by which rivers can be added to that national system and to invite the States into the process as active proponents of protection.

The proposed amendments are directly contradictory to that goal by making it more difficult for States to recommend additions to the Federal system and by giving States the authority for the first time to delete protected rivers from the system. This latter provision, if enacted into law, would put into jeopardy 11 State river segments added under section 2(a)(ii). Of particular concern to us among those 11 rivers are the five north coast California rivers, the Klamath, the Eel, the Smith, the Trinity, and the Lower American, which are heavily sought after by timber and mining interests.

Should section 401 (a) and (b) not deleted from S. 1084, we will find ourselves again compelled to oppose the bill for that reason.

That concludes my remarks on S. 1084. I would be pleased to answer any questions about my comments, perhaps at the end of this panel. Thank you.

[The prepared statement of Ms. Babcock follows:]

36-984 O—84——6

TESTIMONY OF HOPE M. BABCOCK

DEPUTY COUNSEL

NATIONAL AUDUBON SOCIETY

My name is Hope M. Babcock. I am Deputy Counsel of the National Audubon Society. Audubon is one of the largest and oldest nonprofit conservation organizations in the country with over one half million members. Chief among Audubon's goals is to make public policy responsive to the need to use our nation's water resources wisely and to protect riparian and aquatic habitat. I am pleased to be here today to discuss the plight of our wild and scenic river system and the legislation pending before this Subcommittee to amend the Wild and Scenic Rivers Act of 1968 (16 U.S.C. 1271 et. seq.). My comments will concentrate on S. 1084, the Administration's proposed package of amendments to the Act, introduced by Senator McClure, and S. 1756, entitled the State and Local River Conservation Act of 1983, introduced by Senator Durenburger.

Our country's wild rivers are in trouble and the prognosis is not good. In the Lower 48 states, less than 0.2% (0.158%) of America's millions of miles of streams (3.2 million total river miles) are protected under the Wild and Scenic Rivers Act.*/ While few dispute the recreational and wildlife value of wild rivers and their adjacent lands, rivers continue to succumb to development pressure. The sad irony is that thevery characteristics qualifying rivers for protection under the federal wild and scenic rivers system -- steep sides, deep drops and rapid water -- also make the river suitable for hydroelectric development.

Enactment of the Public Utility Regulatory Policies Act of 1978 (PURPA) (16 U.S.C. 824a-3), which, in part, guarantees a market for hydroelectric power at the same price as is paid for power generated from higher-priced

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*/ In 1980, enactment of the Alaska National Interest Lands Conservation Act (P.L. 96-487) added 3,230 river miles to the national system.

fuels like natural gas or nuclear fission, has put further pressure on our wild rivers. PURPA has caused the rate of small hydro applications to the Federal Energy Regulatory Commission (FERC) to jump in six years from 18 per year to 1,800. In California alone, these applications could affect 2,000 miles of streams -- including rivers of outstanding natural value and rivers in RARE II wilderness study areas. FERC has only turned down one application for environmental reasons in the last 52 years. The only thing now standing between these rivers and their hydroelectric development is Congress and the designation process.

This is not to say that the Audubon Society is against hydroelectric or other industrial uses of our rivers. But, we are opposed to indiscriminate uses that are insensitive to the value of these resources in their natural state and we are upset at the increasingly apparent failure of Congress to protect our more outstanding rivers under the 1968 law. Therefore, we welcome your hearing on this vitally important topic. Let me now turn to the bills which are the subject of the hearing.

S. 1084

We are pleased that the Administration has turned its attention to the plight of our rivers and has proposed the addition of segments of 8 rivers toour national wild and scenic system. S. 1084 also contains several positive amendments to the management provisions of the Wild and Scenic Rivers Act, such as requiring the preparation of comprehensive and binding management plans for rivers in the system and improving the ability of the Secretary of the Interior to aquire lands in the designation corridor. We are also pleased at the addition of language to the Act clarifying the status of donated acreage under the tax code.

However, our enthusiasm for S. 1084 is tempered by concern over other proposed substantive amendments to the statute which, we believe, if enacted into law, will impair the Act's effectiveness at a time when efforts should be made in the opposite direction for the reasons outlined earlier in my testimony. If these concerns are not addressed, then Audubon will oppose enactment of S. 1084. These concerns are set out below.

Specifically, we are very disappointed that the Administration has seen fit to propose for designation only 29% of the acreage recommended by the federal land management agency. We note that S. 1084 strips from the recommended acreage river segments that do not flow through our national forests. Lands in the national forest system already receive significant protection. While we appreciate that this approach may reduce controversy over some of the river designations, the reach of the statute was not so narrowly conceived. Such a cramped approach to the law contradicts the Act's broad statement of policy:

> "The established national policy of dam and other construction at appropriate sections of the rivers of the United States needs to be complemented by a policy that would preserve our selected rivers or sections thereof in their free-flowing condition to protect the water quality of such rivers and to fulfill other vital national conservation purposes" (16 U.S.C. 1271).

Nothing in the statute provides a basis for limiting the scope of protection to acreage in our public land system. We would urge this Committee to expand the designated river milage for these eight rivers so that it corresponds to the original recommendations.

We are concerned about the proposal in Section 304 to withhold funds for land acquisition until a comprehensive management plan is prepared. While we

can appreciate that one motive behind this proposal could be to put pressure on the management agency to prepare that plan, this proposed amendment to Section 3(c)(ii) of the Act means that no land can be acquired for the three-year period during which the plan is being prepared. This will allow proponents of river development to nullify a congressional designation by proceeding with private development activities. The $500,000 allocated for emergency acquisitions is simply too little to protect these rivers from destruction under such circumstances. Either the amount of emergency funds must be significantly increased or the freeze on appropriation of funds deleted.

We also oppose giving federal agencies with only minimal interest in the affected acreage what amounts to a veto over additions to the federal wild and scenic system. Section 305 would amend Section 4(c) of the Act to authorize federal agencies with jurisdiction over a mere 5% of the lands within a recommended wild and scenic designation corridor to concur in the wild and scenic recommendation by the Secretary of Interior. While we agree that such an agency has an interest in making its concerns known to the designating agency to avoid conflicts between members of the executive branch, that concern can be accommodated in the comment phase of the designation process. We do not see why that participation should be elevated to a veto given the de minimis nature of the interest. Designating rivers is already a torturous enough process without introducing this additional hurdle. We recommend, therefore, that Section 305 be deleted from S. 1084.

We strongly oppose Section 307, which would amend Section 5 of the Act to terminate automatically the study status for rivers which are not added to the national system by the end of their study period. Such language is

reminiscent of so-called "hard release" language in the wilderness context. The same objections to hard release apply here -- protection of wild areas should be an ongoing process with each generation having an opportunity to add to the system. In the case of wild and scenic rivers, the arguments are even more compelling, as such a sunset provision ignores the reality of river designation.

Since 1980, not a single river has been added to the national wild and scenic river system, although legislation has been pending in both the 97th and 98th Congress to do so. Since 1979, eighteen rivers have reached the end of their study period with Executive Branch recommendations pending to declare them wild and scenic without Congress taking action. Unless the procedures for designating rivers is considerably streamlined -- for example, providing for automatic designation of a river at the end of its study period unless a contrary measure is acted on by Congress -- or the study period is extended from 3 to 10 years, which would be a more realistic period within which to achieve designation, retention of this provision assures that rivers will not be designated.

I cannot stress enough our opposition to this provision as currently written. Retention of this provision alone is sufficient to make us oppose the bill. We recommend deletion of Section 307.

We oppose the addition of the word "unreasonably," as proposed in Section 309(b), as a modifier to the word "diminish," which now appears in Subsection (7)(b)(iii), so that with just this addition the subsection would read:

> "Nothing contained in the foregoing sentence, however, shall shall preclude licensing of, or assistance to, development below or above a potential wild, scenic or recreational river area or any stream tributary thereto which will not invade the area or unreasonably diminish the scenic, recreational, and fish and wildlife values present in the potential wild, scenic or recreational area on the date of this chapter."

Such a modifier is unjustified. Anything qualifying the word "diminish" contravenes the scope of the protection intended by the statute for designated rivers. Further, words like "unreasonably," while pleasing the lawyers among us, assures a litigious future for that provision, which, in the long run, will also work against river protection.

We strenuously oppose Sections 401(a) and (b), which are proposed as amendments to Section 2(a)(ii) of the statute. Section 2(a)(ii) was clearly included in the Act to broaden the methods by which rivers can be added to that national system and to invite the states into the process as active proponents of protection. The proposed amendments are directly contradictory of that goal by making it more difficult for states to recommend additions to the federal system and by giving states the authority for the first time to delete protected rivers from the system. Additions to the federal wild and scenic river system are made more difficult under Section 401(a) by requiring states to enact legislation to add a river to the system, as opposed to the existing law which only requires the governor or the affected state to ask the Secretary of the Interior to add the river in question. Deletions from the national system are made easier under Section 401(b) by giving states the authority, by simple legislative resolution, to remove rivers designated under Section 2(a)(ii). This latter provision, if enacted into law, would put into jeopardy 11 state river segments added under Section 2(a)(ii). The rivers of most obvious concern are the five north coast California rivers (the Klamath, the Eel, the Smith, the Trinity and the Lower American), which are heavily sought after by timber and mining interests. Should Section 401(a) and (b) not be deleted from S. 1084, we will find ourselves again compelled to oppose the bill for that reason alone.

S. 1756

Let me now briefly turn to S. 1756, a bill to provide assistance to state and local governments and private interests in their efforts to conserve rivers.

Audubon supports S. 1756 and views the proposed legislation as a needed complement to the federal system. We agree with the bill's sponsor, Senator Durenberger, that the bill could at low cost greatly expand the number of options for river conservation now available while preserving a measure of local control. We applaud the provisions of the bill which encourage the use of volunteers in river conservation, a positive response to this era of federal and state budget cuts, and which clarify present tax law on donations of riparian lands. The requirement that federally licensed activities be consistent with state designations is also a welcome addition to state river protection systems. One of the most serious loopholes in the Section 2(a)(ii) procedure is the fact that state designations cannot withstand federally licensed intrusions. Section 501 of S. 1756 perfects the state designation process under Section 2(a)(ii) and puts those efforts on an equal footing with those in the federal system. Use of a certification system to implement this provision parallels the Section 401 certification procedure in the Clean Water Act and, therefore, has a compelling precedent.

We do, however, have a two relatively minor concerns with the proposed bill that I would like to briefly mention here.

First, it is unclear whether lands which are presently included in a federal wild and scenic river corridor would be covered by the provisions of this bill. Thus, for example, does Sec. 301(2) imply that a State (other than under Sec. 2(a)(ii)), locality or private organization may manage a river

within the boundaries of a federal designation? Similarly, will a state, to qualify for funding under Sec. 302, have to assess the natural environmental values of rivers that are within the national wild and scenic river system and include those rivers within its priority ratings? Similarly, the bill's language in Section 401(b)(1) could be construed as proposing to turn the management of our federal wild and scenic rivers over to either volunteer organizations or individual volunteers. Needless to say, these interpretations of S. 1756 cause concern.

I am sure that this is not the intent of these sections. I would hope that the Committee would agree with me that the responsibility for managing the components of the wild and scenic river system must remain with the Federal Government for reasons of accountability and effective management of national resources. Audubon would not oppose seeing cooperative agreements being concluded with states for management of non-Section 2(a)(ii) rivers in the federal system, subject to active federal oversight and strict standards limiting the scope, content and duration of such shared functions. However, we cannot concur in the wholesale delegation of these responsibilities, which are properly the perogative of the federal government.

Second, why does S. 1756 restrict the definition of "approved private organizations", found in Section 701(c), to those qualifying for tax exempt status under Section 501(c)(3) of the Internal Revenue Code? In the first place, the actual statutory language is "qualified private organization" not "approved private organization" (see, 301(a)(2), 301 (c), and 301 (d)). In the second place, whether approved or qualified, limiting these organizations to those that qualify for tax exempt status under Section 501(c)(3) is unnecessarily restrictive. Doing this could exclude perfectly qualified

organizations under other subsections of 501 of the Tax Code, like garden clubs. Only for purposes of receiving tax free donations, as provided for in Section 601 of the bill, is it necessary to restrict the recipients of such largess to 501(c)(3) organizations. Therefore, I would recommend that the reference to Section 501(c)(3) in Section 701(c) be changed to refer to just Section 501.

With these relatively minor corrections to S. 1756, we support its enactment into law.

Finally, we support without qualification S. 416, introduced by Sen. Hatfied, to add the Illinois and Owyhee rivers in Oregon to the national wild and scenic river system, and S. 2095, introduced by Senators Humphrey and Rudman, to designate the Wildcat River in New Hampshire a study river under the Wild and Scenic Rivers Act.

Thank you for your attention to my remarks. I will be pleased to answer any questions you may have about my testimony.

Senator WALLOP. We will do them one at a time. Next we have David Conrad.

### STATEMENT OF DAVID R. CONRAD, WASHINGTON REPRESENTATIVE, FRIENDS OF THE EARTH, ON S. 1084

Mr. CONRAD. Good morning, Mr. Chairman. My name is David Conrad and today I am representing Friends of the Earth, a national conservation organization of some 30,000 members across the country who are vitally concerned about the health and well being of the wild and scenic rivers in the system and we appreciate your having these hearings in order to give our views of S. 1084.

Rather than go over some of the ground that Hope Babcock mentioned, I think I will focus my comments on one major aspect of title III of S. 1084 and that deals with an expansion and clarification of the general management plan concept that the administration has included.

Three of the sections of title 10 deal with comprehensive management of plans and how they should be constructed and implemented in the future. These are sections 303, 304, and 313. The concept of 303 of providing more guidance and public participation in the development of general management plans for wild and scenic rivers is a good one. Also placing a greater emphasis on other than fee methods of protecting lands along designated rivers, particularly for scenic and recreational segments, can be considered forward steps.

Section 303 could help to reassure private landowners that acquisition of their property is not a likely outcome of rivers designation. The history of the Wild and Scenic Rivers Act to date has shown only limited use of fee-acquisition purchase for land protection and in the vast majority of these cases such acquisition occurred on a willing-seller basis.

However, a nagging landowner fear of acquisition has often unnecessarily stifled conservation efforts in the past and that may be obvious when you consider the rivers that we are looking at that are also included in this bill, a major mileage which was dropped for that reason.

I am concerned anyway that the extension of time allowed for development of a general management plan from 1 year to 3 years coupled with the restriction in section 304 that no land and water conservation funds may be spent for any type of acquisition except up to $500,000 for emergency acquisition, may be unduly restrictive.

It is hard to imagine, first, why most general management plans could not be completed within 2 fiscal years. Section 304 is obviously there to provide a spur for agencies to complete their management plans prior to initiating land acquisition, a concept which we support. However, including a cap on emergency acquisition of $500,000 seems overly rigid. If the standard for exercising the Secretary's discretion is an emergency situation, that would be an imminent threat of incompatible development or a demonstrated serious hardship for a landowner affecting crucial resources. We think in that event that the cap would be unnecessary in the interim period.

The other section that affects this new concept is section 313, which bans the authority of the Secretary administering a wild and scenic river to use additional innovative methods of land protection. Such authority could enhance the attractiveness of wild and scenic river designation to local landowners because of added flexibility. We support this section but we do suggest that the use of the innovative methods, particularly the sale and lease-back method which could be abused, if not properly watched, should be tied to and addressed in the comprehensive management plan for the river and that would be subject, of course, to review and comment by the public and State and local governments as well. I think that would be a good addition to assure that that does not wind up with the river being abused.

With that, I think that my statement deals with a number of issues that I think I will just submit for the record and we can move on.

[The prepared statement of Mr. Conrad follows:]

TESTIMONY OF DAVID R. CONRAD
WASHINGTON REPRESENTATIVE, FRIENDS OF THE EARTH
BEFORE THE SUBCOMMITTEE ON PUBLIC LANDS AND RESERVED WATER OF THE
SENATE ENERGY AND NATURAL RESOURCES COMMITTEE
REGARDING S.416, S.1084, S.1756, AND S.2095

March 6, 1984

Good morning, Mr. Chairman and members of the Public Lands Subcommittee. My name is David Conrad; my testimony today is offered behalf of the more than 30,000 members of Friends of the Earth, regarding four bills that seek to further the nation's conservation efforts to protect some of our most precious resources: free-flowing wild and scenic rivers.

Mr. Chairman, the Wild and Scenic Rivers Act is now into its sixteenth year. Eleven times during its existence Congress has seen fit to amend the Act, by adding new designations, new rivers for study and occasionally generic provisions and technical amendments to make administration of this Act easier or more productive. During this time, the protected river system system has grown from an initial 788 miles in 8 river segments to nearly 7,000 miles and 61 river segments nationwide; nearly half the mileage and rivers are on national interest lands in Alaska. This still represents only a tiny fraction of the river mileage in America deserving of special protections.

We wish to commend the sponsors of these bills for bringing wild and scenic rivers to the attention of the Congress. In general, we support these bills with a few caviats noted in the remainder of this testimony. We wish to thank Senators Hatfield and Humphrey for their support for rivers in their states, and especially Senator Durenberger for his leadership on state and local river conservation efforts as well. We also wish to commend the Forest Service and the Reagan Administration for assembling S.1084 and for requesting its introduction. Since there have been no additions to the national wild and scenic rivers system since 1980 and since some 33 congressionally authorized river studies (many completed) have not been transmitted to Congress, we have been concerned that wild and scenic rivers seemed to have arrived at deep freeze status. S.1084 adds several deserving rivers and tackles some of the administrative problems that have emerged over time. This is a good sign. We hope much of the study backlog can also be eliminated and forwarded for Congress' review in the near future as well.

Specifically, my comments on these bills are as follows:

S.2095 Wildcat River, New Hampshire

S.2095, introduced by Senators Humphrey and Rudman, would designate for study a 15-mile segment of the Wildcat River in New Hampshire. This segment of the Wildcat was identified on the Interior Department's Nationwide Rivers

Inventory as one of the five best whitewater rivers in New England. The river is a popular scenic and recreational attraction in New Hampshire, and is currently threatened by a small-scale hydroelectric development. We strongly support Senator Humphrey's bill and urge its passage. Recent history of the conduct and content of river studies suggests a need, however, for report language directing the Secretary to fully develop the options of state or local protection as well as federal protection for the river and to consult closely with state and local governments and the public in developing the study. Many recent Interior department studies have lacked adequate development of such options and as a result were sorely deficient. The National Park Service and the Forest Service can do excellent work along these lines when so instructed.

S.416 Illinois and Owyhee Rivers, Oregon

We are pleased to support Senator Hatfield's bill, S.416, designating portions of the Illinois and Owyhee rivers, in Oregon as components of the Wild and Scenic River System. Both are nationally recognized for their whitewater values and their scenic and natural beauty. The Illinois, a tributary of the Rogue National Wild and Scenic River, supports a renowned salmon and steelhead fishery. Federal designation has been sought by the State of Oregon especially to protect the river from federally licensed developments. We would also urge this Committee to consider wild and scenic river designation of Illinois tributary streams--Indigo, Silver and Lawson Creeks--to assure protection for water quality and fisheries, and to consider the portion of the Owyhee River in Idaho that also was recommended for inclusion in the Interior Department wild and scenic river study. We hope S.416 receives early attention and can be reported favorably.

S.1084 Administration Additions and Amendments to the Wild and Scenic Rivers Act

Once again, we appreciate the initiative of the Forest Service and the Reagan Administration in requesting the introduction of S.1084.

Title I of the bill authorizes eight river segments totalling 245 miles for inclusion in the national rivers system. Each of these rivers exhibits outstandingly remarkable, nationally significant values and deserves the federal protections afforded by the Wild and Scenic Rivers Act. The river segments listed are located almost entirely on national forest lands and represent essentially the lowest common denominator on consensus for protection in their respective states. In each case (except the Los Pinos) significant qualified river mileage was dropped from the preferred alternative in order to eliminate any potential conflicts with private lands and to cut possible costs to the federal government. Friends of the Earth believes that much of the river mileage that was eliminated from these proposals should be included in the national rivers system, especially since the Wild and Scenic Rivers Act is designed to accomodate private land use and occupancy. In the case of one river in the bill, the Piedra in southwest Colorado, local conservationists feel the crucial mileage eliminated from the Forest Service proposal is sufficient to warrant the river's elimination from

this legislation if at least part of the river cannot be restored. In the remaining seven proposed additions, we join with local conservationists in support of of these segments now in hopes that sometime in the future the remaining qualified river segments can be added.

Title II of S.1084 in part eliminates the study authorization for Soldier Creek, AL. Such a provision, we feel, is not warranted since Section 7(b) of the Act includes a procedure for terminating a study if the river is found ineligible, which apparently is the rationale.

Title III of S.1084 includes quite a collection of mostly non-controversial amendments to the Wild and Scenic Rivers Act of a technical nature that, on balance, would probably improve the Act's administration. We would support this title with certain changes made.

First, the concept in Section 303 of providing more guidance and public participation in the development of general management plans for wild and scenic rivers is a good one. Also placing a greater emphasis on other-than-fee methods of protecting lands along designated rivers, particularly for scenic and recreational segments, can be considered forward steps. One positive effect of Section 303 could be to help reassure private landowners that acquisition of their property is not a likely outcome of rivers designation. The history of the Wild and Scenic Rivers Act to date has shown only limited use of fee-acquisition purchase for land protection and in the vast majority of these cases such acquisition occured on a willing-seller basis. However, a nagging landowner fear of acquisition has often unnecessarily stifled conservation efforts in the past.

I am concerned, however, that the extension of time allowed for development of a general management plan, from one year to three years, coupled with the restriction in section 304 that no Land and Water Conservation Funds may be spent for any type of acquisition, except up to $500,000 for emergency acquisition, may be unduly restrictive. It is hard to imagine, first, why most general management plans could not be completed within <u>two</u> fiscal years. Section 304 is obviously included to provide a spur for agencies to complete their management plans prior to initiating land acquisition, a concept which we support. However, including a cap on emergency acquisition of $500,000 seems overly rigid. If the standard for exercising the Secretary's discretion is an emergency situation--an imminent threat of incompatible development, or a demonstrated serious hardship for a landowner affecting crucial resources--then we feel the cap would be unnecessary in the interim period.

It should be pointed out that the House and Senate Appropriations Committees also exercise controls over acquisition funds. In some individual instances a single tract of land subject to heavy development pressure can be valued at well over $500,000.

Section 305 requires the concurrence of any federal department or agency head in circumstances where 5% or more of the lands are under that agency or department head's jurisdiction and the Secretary of the Interior is exercising his authority to add a State-administered river to the national system. While this seems generally reasonable, it also seems likely that except in the rarest of circumstances, the wishes of another department head would be taken into consideration in the Secretary's deliberations and

therefore the concurrence would be unnecessary. Section 4 of the Act already requires consultation with other departments and agencies.

Section 309(b)(3) alters and weakens the level of protection for a wild and scenic study river affected by federally-assisted developments above or below the river, but it is difficult to guage the degree of that change. The desired consistency being sought could just as easily be accomplished by eliminating "unreasonably" from Section 7(a) of the Act instead of adding the term to section 7(b).

Section 313, expands the authority of the Secretary administering a wild and scenic river to use additional innovative methods of land protection. Such authority could enhance the attractiveness of wild and scenic river designation to local landowners because of added flexibility. We support this section but suggest that the use of innovative methods should be tied to and addressed in the comprehensive management plan for the river, which would be subject to review and comment by and consultation with state and local governments and the general public.

Title IV of S.1084 provides a state legislature with a new power to remove a river from the national system by resolution if the river was included under the authority of Section 2(a)(ii) of the Wild and Scenic Rivers Act. We find this provision unacceptable because it is totally inconsistent with the national policy of protecting free-flowing rivers with outstandingly remarkable characteristics for the benefit and enjoyment of future generations.

Section 2 of the Wild and Scenic Rivers Act establishes an elaborate method by which a state which has acted to protect a river or rivers can apply to the federal government for the protections and recognition of rivers in the national system. The decision to include such a river in protection for perpetuity is a federal decision and should not be capable of being undone at the whim of a state legislature. Such an amendment would seriously decrease the stability of the Wild and Scenic River System. The decision to remove a river from the Wild and Scenic River System should rest soley with the Congress because the policies being implemented are national policies.

We strongly urge that this provision (Title IV) be stricken from the bill as it represents a serious and unacceptable weakening of the Wild and Scenic Rivers Act.

S.1756 STATE AND LOCAL RIVER CONSERVATION ACT OF 1983

We commend Senator Durenberger and the other consponsors of S.1756 for providing leadership in developing a program to assist state and local efforts to protect important free-flowing rivers and streams. It is clear that the slow pace of river conservation through the national wild and scenic rivers system needs to be complemented by state and local efforts to preserve rivers. Some twenty-seven states have river conservation programs; many are modeled to a greater or lesser extent after the federal rivers program. But several factors, especially lack of resources and threat of federal preemption, have conspired to frustrate river conservation efforts at the state and local levels.

The elements of S.1756 seem to be the right ones for spuring more vigorous non-federal action to conserve rivers. Modest sums are needed to seed the establishment of programs and to conduct statewide river assessments to identify the rivers that have the most potential and highest priority for special conservation attention. A means to promote use of volunteers and volunteer organizations to assist in state and local river conseravtion efforts will stretch limited dollars even further. A useful clarification of current law establishing affirmatively that donations of real property interest to rivers included in scenic river programs are eligible for certain tax-related incentives has been included. And finally, and possibly most important, a provision subjecting federally-permitted developments to a state concurrence requirement for rivers included in state river programs would add a needed measure of state control to assure that state river programs are not meaningless excercises constantly subject to federal preemption.

We recognize some modification and clarification of terms in S.1756 maybe necessary to best facilitate its objectives, and hope the Subcommittee on Public Lands can report the bill soon along with the others.

I thank the Subcommittee on Public Lnads and particularly Chairman Wallop for holding these river hearings and allowing me to testify. I would be happy to respond to any questions.

Senator WALLOP. Thank you I appreciate it.

Did Joni Bosh come in? Bart Koehler as I understand it, who is representing Wyoming Outdoor Council, is not here. Has Sue Pemberten come in? We will go to Larry Mehlhaff.

## STATEMENT OF LARRY MEHLHAFF, COLORADO OPEN SPACE COUNCIL

Mr. MEHLHAFF. Thank you, Mr. Chairman. My name is Larry Mehlhaff and you came very close to pronouncing that correctly. Thank you.

I am with the Colorado Open Space Council. I am their program director in charge of public land and water issues. COSC is a statewide coalition of 52 conservation and citizen organizations. Our member organizations include many diverse groups concerned with river conservation issues, including the Colorado Whitewater Association, Trout Unlimited. Our comments today pertain to the rivers in Colorado proposed for designation in S. 1084. I hope not to cover the same ground that the other people will.

First, I am pleased to see Congress considering the additions to the National Wild and Scenic Rivers System. I think you will see from my testimony we are proud of our free-flowing rivers in the State of Colorado and we understand the importance of water in the West. In his book, Philip Frackton explains, that the West was won not by the six-gun, but by shovels and shovels that moved dirt so that water could be moved. They did a good job in Colorado. We now have almost 2,500 dams and reservoirs in the State and innumerable diversions and ditches.

But water needs for recreation and tourism and fish and wildlife must also be met. While tourism is the State's third largest industry and recreational river use is growing 10 percent per year, no stretch of any Colorado river has been designated as wild, scenic or recreational under the Federal act.

The Colorado rivers included in S. 1084 are a good start. We do have two overall concerns. First, the Colorado rivers included in

this bill are to a great degree already protected under the 1964 Wilderness Act. In fact 117 miles of the 148 miles of Colorado rivers in this bill are inside of designated wilderness or wilderness study areas. We would like to ask Congress to take a bolder step in protecting more river miles outside of designated wilderness.

Second, only one of the proposed river segments in Colorado contains private land. We fear the designating of only rivers in public ownership will set a weak precedent for river preservation, since much of the development in the river corridors is planned for its deleted private land. As you will see later in my testimony some private landowners are supporters of wild and scenic designation. We feel that better management will be provided under designation or that they do not plan to develop their private lands in the first place.

Specifically, we have always supported the designation of 54 miles of the Los Pinos River in S. 1084. The area contains high quality fishing and spectacular scenery. It certainly deserves the recognition as a wild and scenic river.

We also support with minor changes designation of the Alp and the Conejos Rivers. The Elk provides habitat for a variety of animal species, including elk, deer, black bear, and big horn sheep. The scenery is outstanding and is used for hunting—the area is used for hunting, fishing, back-packing, horse back riding, kayaking, and rafting.

To fully protect the river, we suggest the committee add 2 additional miles within the park area. The COSC, while supporting designation of 36.8 miles of the Conejos River, as proposed in S. 1084, proposes adding 12 additional miles, mostly downstream of the south fork. This river is an exemplary mix of the balance between river preservation and water development in Colorado.

The Conejos flows from the South San Juan, generally recognized as the wildest section of Colorado. The river is then captured by the Pertoro Dam and reservoir and then flows freely again below the dam in a beautiful gorge. The balance has been reached and we should protect the remaining stretch of this river.

However, because of inadequate mileage COSC is not able to support the designation of the Piedra River proposed in S. 1084. We believe that 21.5 miles of the river should be added. These deleted segments of the river, while containing private lands, include few, if any, resource conflict. These segments do include elk migration routes for one of the largest elk herds in the State. We are also proud of the fact that we have the largest amount of elk in the United States in Colorado.

These segments also contain one of the two river otter populations in the State. River otters were extinct in Colorado until recently in the Piedra River drainage. In addition one of the largest private landowners in the river corridor, the Piedra Valley ranch, supports protection of the river and they have outlined that in the final environmental impact statement to the Piedra.

We also recommend designation beyond these rivers of the Encampment River in Colorado. Nineteen miles of the Encampment have been studied and recommended for inclusion by the Forest Service, just as these others have been and are considered noncontroversial. There is no reason to delay its protection.

Another river I would like to at least bring to your attention is the Cache La Poudre River north of Fort Collins not very far at all from Wyoming, as a matter of fact. It is the only major free flowing on the front range of Colorado. Legislation is being developed in the House of Representatives at this time and I ask the committee to consider including this spectacular river.

We also feel it is important that additional Colorado rivers be studied for inclusion in the National Wild and Scenic Rivers System. The Forest Service has recommended the following rivers for wild and scenic river studies in their draft forest management plan and environmental impact statement—and the exact statements are in my testimony—the South Platte, the Crystal, and the South Fork of the White River.

Other obvious wild and scenic river candidates which should be studied further include the Arkansas River and the Colorado River. These river segments rank as the No. 1 and the No. 2 recreational rivers in the State in terms of use.

That concludes my testimony and once again I thank you for your consideration of the wild and scenic rivers in Colorado and we appreciate the opportunity to tell you about our rivers.

Thank you very much.

[The prepared statement of Mr. Mehlhaff follows:]

TESTIMONY OF LARRY MEHLHAFF

COLORADO OPEN SPACE COUNCIL

Mr. Chairman, my name is Larry Mehlhaff. I am the Colorado Open Space Council (COSC) Program Director in charge of public land and water issues. COSC is a statewide coalition of 52 conservation and citizen organizations. Our member organizations include many diverse groups concerned with river conservation including the Colorado Whitewater Association, Trout Unlimited and Preserve our Poudre. COSC works to provide a unified voice for the conservation community in Colorado. Our comments today pertain to the rivers in Colorado proposed for designation in S.1084.

COSC is pleased to see Congress considering additions to the National Wild and Scenic Rivers System. The Colorado Rockies serve as the headwaters for several of the nations major river systems. including the Rio Grande, the Arkansas, and the Colorado. These rivers have been tamed to bring civilization to the arid west. Their free flowing water - more precious than gold or silver - had to be controlled to support crops, livestock, and industrial and municipal needs. In his book "A River No More", Philip Fradkin explains that the West was won not by the sixgun but by shovels - shovels that moved dirt so that water could be moved.

We now have almost 2500 dams and reservoirs in the state and innumerable diversions and ditches. But water needs for recreation, tourism, fish, and wildlife must also be met. While tourism is the states third largest industry and recreational river use is growing at 10% per year, no stretch of any Colorado river has been designated as wild, scenic or recreational under the federal act.

The Colorado rivers included in S.1084 are a good start. We do have two overall concerns. First, the Colorado rivers included in this bill are to a great degree, already protected under the 1964 Wilderness Act. In fact, 117 of the 148 miles of Colorado rivers in this bill are inside designated wilderness and wilderness study areas. We ask Congress to take a bolder step by protecting more river mileage outside of designated wilderness.

Second, only one of the proposed river segments in Colorado contain private land. We fear that designating only rivers in public ownership will set a weak precedent for river preservation since much of the development in the river corridors is planned for this deleted private land. In addition, some private landowners are supportive of Wild and Scenic designation. They may feel that

better management will be provided under designation or that they do not plan to develop their lands anyway.

Specifically, we fully support the designation of 54 miles of the Los Pinos River. The area contains high quality fishing and spectacular scenery. It certainly deserves recognition as a Wild and Scenic River.

We also support, with minor changes, designation of the Elk and Conejos Rivers. The Elk provides habitat for a variety of animal species, including elk, deer, black bear, and bighorn sheep. The scenery is outstanding and is used for hunting, fishing, backpacking, horseback riding, kayaking and rafting. To fully protect the river, we suggest that the committee consider adding two miles in the Hinman Park area.

COSC, while supporting designation of 36.8 miles of the Conejos River, proposes adding 12 additional miles, mostly downstream of the South Fork. This river is the examplery mix of the balance between river preservation and water development in Colorado. The Conejos flows from the South San Juans, generally recognized as the wildest section of Colorado. The river is then captured by the Platoro dam and reservoir amd then flows freely agian below the dam in a beautiful gorge. The balance has been reached and we should protect the remaining stretches of river.

Because of inadequate mileage, COSC is not able to support the designation of the Piedra River as proposed in S.1084. We believe 21½ miles of the river should be added to S.1084. These deleted segments of the river, while containing private land, include few, if any, resource conflicts. These segments do include elk migration routes for one of the largest elk herds in the state.They also contain one of the two river otter populations in the state. River otters were extinct in Colorado until recently reintroduced in the Piedra River drainage. In addition, one of the largest private landowners in the river corridor, The Piedra Valley Ranch supports protection of the river as outlined in the Final Environmental Impact Statement.

We also recommend designation of the Encampment River in Colorado as a Wild and Scenic River. 19 miles of the Encampment has been studied and recommended for inclusion by the Forest Service and are considered noncontroversial. There is no reason to delay its protection. Another river I would like to bring to your attention is the Cache La Poudre River north of Fort Collins. It is the only major free flowing river on the Front Range of Colorado. Legislation is being developed in the House of Representatives at this time and I ask the committee to consider including this spectacular river when the time is ripe.

We also feel it is important that additional Colorado rivers be studied for inclusion in the National Wild and Scenic Rivers System. The Forest Service has recommended the followingrivers for Wild and Scenic River studies in their Draft Forest Management Plan Environmental Impact Statements: South Platte(Cheeseman Reservoir to Eleven Mile Canyon Reservoir-23 miles), Crystal(North and South Forks - 40 miles), and the South Fork of the White River(White River confluence to the source - 25 miles).

Other obvious Wild and Scenic River candidates which should be studied further include 91 miles of the Arkansas from Pine Creek to Canon City and 23 miles of the Colorado River from State Bridge to the confluence with the Blue River. These river segments rank as the number one and number two recreational rivers in the state in terms of use.

Once again, thank you for your consideration of Wild and Scenic Rivers in Colorado. We appreciate the opportunity to tell you about our rivers in Colorado and we wish you the best in your deliberations.

Senator WALLOP. Thank you.
Chris Brown.

## STATEMENT OF CHRISTOPHER N. BROWN, CONSERVATION DIRECTOR, AMERICAN RIVERS CONSERVATION COUNCIL, ON S. 1084

Mr. BROWN. Thank you, Mr. Chairman. My name is Chris Brown. I am representing the American Rivers Conservation Council, which is the only national group that works exclusively on river conservation. We are especially appreciative of your scheduling the hearings today on all four of the river bills. It has been a while since we have had hearings on the river bills here and we are very pleased and hope that this Congress may take some action on rivers.

Let me pick up just a few points from my testimony. I review each of the bills pretty carefully in my testimony, but I want to mention four things about S. 1084.

First of all, I want to be sure that as we proceed on river protection that we are not giving priorities to rivers and lands that are already protected. Larry mentioned in his testimony the number of miles in Colorado that are already within wilderness areas of the rivers being considered. This is true for all eight of the rivers that are in S. 1084. We certainly are in support of adding those into the national system, but we do not want to see it as a precedent where the only rivers that will be going into the national system will be rivers that are already protected.

I would myself tend to trust the professional managers who are studying the rivers, in this case in all eight of these rivers, the USDA Forest Service. The mileage figures from these eight rivers are something on the order of 240 miles are in this bill. They had originally recommended about 360 or 370, so we are talking about only two thirds of the miles that they recommended be included.

I think almost all of the mileage being left out is private lands and I would encourage the committee to take a look and see if there are not opportunities to protect some of those lands that

would not be costly and where there are actually landowners who would favor that.

At the same time, however, we are very supportive of six of the rivers in there, the Verde in Arizona, the Au Sable in Michigan, both the Clarks Fork and the Snake in Wyoming. I am disappointed to hear that at this point you will not be recommending that, but I do understand your reasons. Within Colorado, the Los Pinos and the Conejos seem imminently worthy; the Elk River we had some questions about the recommendations that Larry made. I am changing the wording. I think we would support the Piedra with an additional 20 miles; we would support that in the wild and scenic system. So certainly six of the rivers we are fully supportive of at this point staying in the bill.

Just a couple of the provisions under title III I would like to talk about. Section 305 provides that any Federal agency which holds 5 percent or more of the lands along the river needs to concur before the designation be made. I think what is behind that is a need for particularly the USDA Forest Service to be involved in any designations on their lands. I would suggest for that section that we simply change any Federal agency to USDA Forest Service or maybe just Department of Agriculture and leave it at that. I suggest some language on it in my testimony.

The other provision I particularly want to hit on is title IV, which as you know would allow State legislatures more opportunity to take rivers out of the national system. I simply do not see the National Wild and Scenic River System as a two-way street any more than the National Park System. If Congress decides after a Federal action that they would like to reverse that, Congress has that authority. But I think it is a real mistake and a disservice to our river protection efforts to have State legislatures given that authority to pull rivers out of the national system. We would very strongly oppose title IV.

The final thing I would like to say is that there are a number of rivers that are coming up that have been studied by the Park Service and Forest Service, which we expect positive recommendations on in the near future. I have listed those in my testimony. I would hope the committee would consider those as additions to S. 1084 for designations, the Encampment and Cache La Poudre Rivers in Colorado that Larry mentioned; the North Fork fork of the Kern River in California; the Manistee River in Michigan; the Situk and the Sheenjek Rivers in Alaska; and the Bruneau in Idaho. Those are all rivers that have been studied and have or will be receiving positive recommendations. I would hope the committee would consider adding those to the system.

Thank you. I would be glad to answer questions.

[The prepared statement of Mr. Brown follows:]

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TESTIMONY OF CHRISTOPHER N. BROWN,
CONSERVATION DIRECTOR, AMERICAN RIVERS CONSERVATION COUNCIL
BEFORE THE
SUBCOMMITTEE ON PUBLIC LANDS AND RESERVED WATER
REGARDING
S. 1756, S. 1084, S. 416, S. 2095

MARCH 6, 1984

Mr. Chairman, I appreciate the opportunity to speak on the 4 rivers bills before this committee today.

My name is Christopher Brown and I am the Conservation Director for the American Rivers Conservation Council. I am also speaking on behalf of the Environmental Policy Institute.

The American Rivers Conservation Council, now in its eleventh year, is the only national group working exclusively on the conservation of America's river heritage. Over the years our focus has been on the Wild and Scenic Rivers system, but recently we have sought more ways to encourage state and local conservation efforts as well. We have the hope, as I am sure you do, that in our lifetimes a solid representation of our nation's river heritage - its historic, recreational, and most scenic streams, as well as those with special wildlife or ecological significance - will be protected.

Dare we hope that 2% of our rivers will enjoy Wild and Scenic protection? The figure now stands at an impressive-sounding 7000 miles, but an unimpressive 0.2% of the river mileage in the lower 48 states.

The American Rivers Conservation Council is in general support of all four bills (S. 416, S. 1084, S. 1756, S. 2095) being considered today and is most appreciative of the Chairman's scheduling these hearings so these bills can be given full consideration.

Before discussing the merits of each individual bill, I would like to make three general observations:

First, we welcome these hearings because the last few years have seen little at the federal level in the way of river conservation activities, at a time when the threats to our rivers have been increasing geometrically. Hydropower development (applications for hydropower permits and licenses were up 100-fold over a five-year period 1978-1982), streamside development of land, and other uses of the resource are being given repeated priority over preservation of our rivers.

The American Rivers Conservation Council continues to take seriously the stirring words of the 1968 Wild and Scenic Rivers Act, that "the established national policy of dam and other construction... of the rivers...needs to be complemented by a policy that would preserve other selected rivers...in their free-flowing condition...". The balance between protection and use has not yet been established. Today's hearings can be a first step toward a significant river conservation achievement in 1984.

Second, part of the promise of the Wild and Scenic Rivers Act is that new river miles will be protected. Rivers which already enjoy protection within the boundaries of a national park, Wilderness area, or other federal lands, while worthy candidates for the National Wild and Scenic Rivers System, should not be our highest priorities. We will support their addition, but believe the focus should be on rivers and lands presently unprotected.

Lands in private ownership should not be automatically excluded from Wild and Scenic proposals. Not only do many of these landowners want to see their rivers protected (and their lands to be part of that effort), but alternative opportunities to achieve protection have increased tremendously over the last few years (and been given greater visibility by the Chairman's Land Management and Land Protection workshops).

Third, when it comes to saving rivers, there are many ways to skin the cat. Wild and Scenic designation is one. But the history of the last ten years "is one of diverse and notable achievement in river conservation at the state and local levels as well". Senator Durenberger wisely recognized the opportunities in these approaches in introducing S. 1756: "We need to devise a way to incorporate the great strength and wisdom of the state and local units of government into a full partnership with the Federal Government".

He also observed that while "inclusion of all rivers worthy of preservation in the national system is neither possible nor appropriate, ...a program of federal incentives for the conservation of...rivers through other that Federal designation is critical to the protection of the Nation's system of freely flowing rivers."

S. 1756 is designed to build upon the success in a score of states with state level protection programs, as well as the activities of hundreds of local groups. S. 1756 leads the way, and provides the carrot, at the federal level for the eminently worthy goal of seeing parts of our rich river heritage conserved. S. 1756 will serve as a complement to the Wild and Scenic Rivers Act.

## S. 1756

S. 1756 is skillfully designed to provide incentives to states and local organizations, both public and private, to increase their river conservation activities. The great advantage of the bill is that it offers these incentives with a minimal cost while making it a clear national policy to promote river conservation. It recognizes the tremendous diversity in river resources, in local needs, and in conservation techniques

available. It is not prescriptive, but it offers strong tools for those who would make use of them. Its efforts will be to energize and empower our citizens to redouble their efforts to see our finest streams conserved.

Section 301. We support this grants section as it stands, although we urge the committee to clarify the conditions under which organizations will qualify for grants. Also, the Nationwide Rivers Inventory may not be the best measure of "need" for river conservation. It is a rough indicator of outstanding river miles in each state. A formula based on "miles of streams in each state" would be a worthy substitute if such a compilation could be found.

Section 302. We support.

Section 303. We support.

Section 401. The intention here is to build on a handful of pioneering volunteer river conservation efforts around the nation: clean-ups, management programs, patrols. The trails community has some outstanding models to offer. We support this section.

Section 501. This section provides that on rivers within state-protected rivers programs, any issuance of a federal license permit, or exemption for a project on that river, can be done only with the Governor's concurrence. Two points must be emphasized, however:

1) At present the state-protected rivers which would qualify under this section are few: an estimated 14,000 miles of rivers, which represent about 0.4% of all the river mileage in the lower 48 states.

2) The language of section 501 is written so as to put the burden of proof on the state's Governor to act. If (s)he fails to disapprove in 180 days, the state's concurrence is presumed. From our discussions with people around the country, this is the single most important section in the bill. The concept that a federal agency can override a state's most thoughtful and deliberate planning for its rivers simply does not sit well with many from a wide geographic and political spectrum. I believe the range of interests among the 15 co-sponsors of S. 1756 reflects the widespread concern that we will continue to lose our nation's precious rivers one by one unless states have more say in their protection. ARCC strongly supports this provision.

Section 601. This section provides additional support for donations of land along rivers for conservation purposes, and is consistent with the goals of the Chairman's own legislation to promote land conservation through tax incentives.

The title, "Tax Incentives", however, is a poor one and should be changed; "Clarification of Existing Tax Legislation" would be far more suitable, since this section is not a rewriting of the tax code, but rather an amplification of the concepts which the Senate endorsed in the Tax Treatment Extension Act of 1980.

ARCC supports this section.

Definitions. ARCC supports these definitions as written.

S. 1084

ARCC supports the general concepts of S. 1084, which seek to strengthen the Wild and Scenic Rivers Act.

Title I.

Section 101. We support; we would, however, like to see the committee, in consultation with the Agriculture and Interior Departments, consider some additional rivers to be studied for the Wild and Scenic Rivers System.

Section 102. We support.

Section 103. ARCC believes that, overall, the USDA-Forest Service has done a very credible job in conducting Wild and Scenic river studies. The study process has included careful assessment of the resource, examination of alternatives, and an enormous amount of input from the public. This process clearly puts the Forest Service in an excellent position to judge not only the resource implications, but also the political climate for a Wild and Scenic designation. We find in S. 1084 that of the 8 rivers recommended for designation, the Forest Service came up with recommendations ARCC can support on all 8. Unfortunately, the advice of these professional land managers was not always taken in the proposals made for designations in S. 1084. Mileages on many of the rivers have been significantly reduced, with consequent loss in resource values.

| | USDA Forest Service Recommendation | S. 1084 Recommendation | |
|---|---|---|---|
| Clarks Fork (WY) | 22 | 21.5 | (miles) |
| Snake River (WY) | 25.5 | (lower)13 | |
| Au Sable River (MI) | 74 | 23 | |
| Los Pinos River (CO) | 54 | 54 | |
| Conejos River (CO) | 38.8 | 36.8 | |
| Piedra River (CO) | 50.9 | 28.4 | |
| Elk River (CO) | 35.3 | 29.1 | |
| Verde River (AZ) | 78 | 39.5 | |
| | 378.5 | 245.3 | |

Nonetheless, ARCC can support the designation of 6 of the rivers as they appear in S. 1084, and of the two others if a few modifications are made in the mileages to be designated.

ARCC supports:
- Clarks Fork
- Conejos
- Los Pinos
- Verde
- Au Sable
- Snake

(as stated in S. 1084)

Elk - ARCC strongly supports the Forest Service's recommendation for inclusion of 31.1 miles (rather than the 29.1 included in S. 1084). The additional 2.0 miles is necessary to provide adequate protection for the river in the Hinman Park area. ARCC favors dropping the 4.2 miles from the Forest Service's originally proposed 35.3 miles because of unavoidable conflicts with private landowners.

Piedra - ARCC strongly supports the Forest Service's original recommendation of 50.9 miles of the river for designation rather than the 28.4 miles included in S. 1084. The 22.5 miles which have been dropped in S. 1084 represent an unacceptable loss of river resource, leaving the integrity of the river as a whole system seriously diminished. The designation as proposed in S. 1084 would present serious land management problems for the Forest Service.

Title II.

ARCC has no objections to Section 301, 302, 310, and 311. ARCC supports Sections 303, 306, 308, 309, 312, 313, and 314 (if the reference to "Section 16 (c)" is corrected to "Section 15 (c)."

These sections represent valuable improvements in the Wild and Scenic Rivers Act and will give agency managers more flexiblity in seeing that the rivers in the system are properly protected and managed.

ARCC objects to sections 304, 305, 307, and 401 (a and b) but believes that changes in wording would make them acceptable.

Section 304--This section would appear to leave a "window" of three years during which the agency manager of a designated river would be limited in emergency protection funding to $500,000. We know of instances in which this sum simply would not be adquate. We applaud the provision in Section 303 for a comprehensive plan, but feel that the wording "such sums as may be necessary" should replace "sums...shall not exceed a total of $500,000 for each of said rivers."

Section 305--The issue behind this section is clearly designation of rivers into the national system under Section 2 (a) (ii) of the Act by the Secretary of the Interior without the concurrence of the Secretary of Agriculture. ARCC would propose new language:

> "When 20% or more of the lands within one-quarter mile of the river proposed for designation are under the jusrisdiction of the U.S. Department of Agriculture, the Secretary of the Interior, in exercising his authority pursuant to the provision of Subsection 2 (a) (ii) of this Act, shall not approve the designation without the concurrence of the head of such Department."

Section 307--The proposed language will not be helpful in getting rivers protected or in spurring Congress to act on pending Wild and Scenic rivers designations. On the contrary, it would encourage stalling on designations. ARCC would propose

> Section 307--Section 7 (b) (ii) is amended by deleting the words "three years" and inserting in lieu there of "five years."

Title IV.
This title, sections 401(a and b) runs directly counter to the spirit of the Wild and Scenic Rivers Act as stated in its Section I. The authors of the Act certainly did not intend to make inclusion of the rivers in the national system a two-way street anymore than addition of national parks or forests to their respective systems is reversible. Designation of a Wild and Scenic river, whether by 2(a)(i) or 2(a)(ii), is a federal action, and only an Act of Congress should reverse it.

The state legislatures already have a clearly defined role under section 2(a)(ii) of the Act and if they in their deliberations and forethought have sought protection of a river and the state's governor has agreed that the river should be made part of the national system, then such designation should be permanent.

Finally, the provisions of Section 305 of S. 1084 (either in its present language or with the changes proposed by ARCC) would eliminate the need for Title IV.

ARCC recommends that Title IV be dropped from S. 1084.

## Additional Designations

ARCC proposes that the following rivers be added to S. 1084, Section 103 as proposals for addition to the national system. These rivers have been studied for the Wild and Scenic Rivers System and the studies are nearing completion or have been completed.

Encampment (CO)
Cache La Poudre (CO)
North Fork, Kern (CA)
Manistee (MI)
Situk (AK)
Sheenjek (AK)
Bruneau (ID)

## S. 416

The designation of the Illinois and Owyhee Rivers as part of the national system is overdue. Studies were completed and positive recommendations were made some five years ago, and these outstanding streams--the one through a lovely, unspoiled forested canyon, the other through the High Desert of eastern Oregon and Idaho--represent the best of America's unspoiled rivers.

The ARCC is in strong support of Senator Hatfield's bill, joining citizens across Oregon and the Oregon state legislature in supporting S. 416.

We would, however, make two suggestions:

1) The Committee should give consideration to the addition of three tributaries of the Illinois to be included under Wild and Scenic: Lawson, Indigo, and Silver Creeks. These streams, presently unspoiled, would make the protection of the Illinois as an integrated system more complete.

2) The Committee should consider including the Idaho section of the Owyhee, up to the total 192 miles the Bureau of Land Management had recommended in 1979. Again, the longer segment would mean that the integrity of the river as a whole is better protected. We suggest this inclusion, however, with the caution that designation of the Owyhee as Wild and Scenic should not preclude the consideration of wilderness for the surrounding areas.

S. 2095

Senator Humphrey's effort to see the Wildcat River with its Jackson Falls protected is worthy of all of our support. As a native of New Hampshire, I have been an admirer of this river and falls since childhood and believe the Nationwide Rivers Inventory assessment is correct in seeing this river as a worthy candidate for the National system. It was exactly such gems, in the different parts of our nation, which the Wild and Scenic Rivers Act intended to be preserved.

The one improvement I would suggest in the S. 2095 would be the addition of wording to insure that, as the river is studied for the National System, alternatives for state and local management and protection are carefully explored. Even given the proximity of the river to a federal agency (the USDA Forest Service), federal protection and management may not be the best answer. The Wild and Scenic study should contain as an alternative, a clear strategy for other-than-federal land protection and management. The Committee should give careful thought to which federal agency is best qualified to conduct such a study.

Thank you for the opportunity to testify Mr. Chairman and I would be glad to respond to any questions.

Senator WALLOP. Thank you all.

Let me frame a dilemma, as I sense it, and see if not today perhaps but over the course of time you might be able to give us assistance. Most of you are aware of the increasingly major discomfort that I feel about what we have done by way of expressing our appetite for protecting various rivers and land areas in this country, in effect creating an almost abysmal kind of taking where we have not had a similar appetite to pay for what we wanted to protect.

So those land holders who are so unfortunate as to maintain their property in such a way that it is still good enough for wild and scenic rivers, good enough for national parks, and good enough for a variety of kinds of protection, find themselves in a position where their only purpose is to pay taxes. They do not get any compensation for what they have. They cannot sell it, because nobody else can, and they have, depending on whose figures you care to use, somewhere between $2 and $4 billion worth of expressed appetite with no taste for the acquisition.

Now, I understand the segments of your testimony in which you said you would like to have some of these rivers protected even though they have private lands along them. To the extent that there are some people, Larry Mehlaff expressed landowners in Colorado who are in favor of it. I wonder if you could through your organizations perhaps help us to get to the situation where we are not talking, about large appropriations, but where we have the cooperation in those segments of rivers or where we could get it for perhaps less than the fee acuqisition, which is the case in certain areas of Wyoming. Because it is consistent and everybody tells us the size of the deficit is the No. 1 problem in the country.

We are in a terrible bind with excess in demands for what we have. To the extent that you could get the cooperation of land holders along segments of rivers, I feel quite certain that this committee would be moved to entertain the additions that you are suggesting. It may be that groups such as yours are most appropriate for

this; it may not be. I am sort of asking you to go find out and help us in this.

Because it is a dilemma not to be able to add a large dimension of acquisition expecially when we have such an enormous backlog. I just think what we have done in this country is wrong and at some opportune time the courts are going to say that what we have done is wrong. And then we will be in a terrible turmoil in deciding which to add and which we are simply going to release. I do not want to add to that circumstance especially in the areas where we are looking for good segments of the natural resources in the country to protect, in this case rivers.

Mr. BROWN. Can I respond to that? I would really agree with you, Senator, that there are lots of opportunities out there in our experience for finding less than fee-protection methods. We see it going on right now on rivers already within the national system, on the Flat Head River, in Montana, on the Pere Marquette, in Michigan, on the St. Croix, in Wisconsin and Minnesota.

That is already occurring and the one thing I would encourage the committee to take a look at is whether on some of these rivers we are talking about today, whether there are the same kinds of opportunities if we get trust of the public land to go in there or major conservancy, or some other land trust, or conservancy to go in and start talking to landowners, whether there might not be very cost-effective means to protect some of the lands along the river.

Ms. BABCOCK. Let me just expand, if I could, on what Chris said. I think also there are other methods that could be added to what we have in the legislation, some of the proposals in S. 1756, for example, making it more attractive for landowners to donate their land for protection.

Senator WALLOP. My interest and theirs is undiminished and I think in the future that will be the way to go. We have not yet gotten it done, and I need your help on that side as well. There may be some circumstances in which we could do that without the passage of that legislation.

Ms. BABCOCK. That is why I think if we could get some creative revenue rulings perhaps out of the Treasury Department that might facilitate these types of donations. The other, and perhaps it falls in the same category, is this acquisition of less than fee ownership, so the price tags are not quite as high and you are talking about easements beginning to split into different types of protective ownership. That also might help with the education problems, so that landowners would not feel they were losing their land on some type of lack of Federal Government hold that they did retain the use of their land with certain limitations.

And there I think in both those respects and again echoing what Chris has said would certainly help with the education program, explaining to the owners exactly what is involved in a designation and more importantly the value of the river in retaining its wild status, the value to them, their families, et cetera.

The problem, however, persists that the threats to these rivers do not always wait for the education to take place and, therefore, I would continue to press very, very hard for acquisition of private lands. I do not see a constitutional problem there. There may be a

budgetary problem. As long as the property is acquired for fair market value, we do not have a due process problem.

Senator WALLOP. We may not have a due process problem, but we have a financial problem. It is still identified by both parties and by nearly every commentator in the world as the No. 1 problem in the country. If somebody seeks due process, it is simply by buying something else, sometimes of equal or sometimes of great importance.

I do not know the answer to it. One of the things I am doing is inviting your assistance, not only with the tract of S. 1765 and similar provisions in S. 1736.

Ms. BABCOCK. Perhaps greater screening could take place on some of these rivers, so, as Chris said, the opportunities for non-Federal acquisition could be identified as part of the designation study process.

Senator WALLOP. It might not get us a whole lump, but it might give us more of a lump than is being suggested here. That is what I am saying from the standpoint of the chairman of the subcommittee. I would be very inclined to entertain additions to the extent that we are not adding to the cost. If you can find that out, by all means let us know. I think it is a good idea if it can be done.

Ms. BABCOCK. We are certainly always happy with more of a load than less of a load. We will work with you.

Senator WALLOP. Let me ask just one other question. You have heard the testimony of Chief Robertson with regard to the lamprey in the Pere Marquette. Would you have any opposition to a generic provision which would allow that kind of wildlife management, protection along these rivers?

Mr. CONRAD. I think if it was crafted pretty narrowly so that it was pretty clear that that is exactly what it was trying to do, it seems to me that related to the purposes of the Wild and Scenic Rivers Act. That sort of thing is stated clearly. I would think that would not be an insurmountable problem.

Ms. BABCOCK. I would definitely agree with that. The only thing I guess I would add to what David just said is to be sure there is adequate congressional oversight of that process, so that on an annual or whatever appropriate time period basis you would hear back from the Federal land management agencies on the inclusions or changes in the designation.

Senator WALLOP. I do not have any problem with that. I just do not want a small problem to become a large problem while we sit in Congress and try to figure out how to solve it. That does not seem to me the purpose for which it was set aside.

Sue, you have come in, you are welcome to testify.

### STATEMENT OF SUSAN L. PEMBERTEN, CONSERVATION REPRESENTATIVE, SIERRA CLUB OF MICHIGAN

Ms. PEMBERTEN. I am Susan Pemberton, conservation representative for the Sierra Club of Michigan. I would like to thank the members of this committee and Senator Wallop for considering the wild and scenic river designations before you today.

The Au Sable is Michigan's premiere recreational river. The fishing and canoeing is outstanding, although I wish I could catch fish there. The scenic value is unquestionable.

We are pleased that some protection is being contemplated. As Secretary Block has stated the natural and scenic values of the Au Sable River are unique and irreplaceable and we support this proposal.

We would like to express, however, our strong disappointment at the relatively small stretch that has become the final recommendation. Over the several years that this designation proposal has been studied, we have seen the recommendation go from 91 to 74 to the current 23 miles, deleting both the north and the south branches. To offer maximum protection, both the north and south branches need to be reconsidered. Over the long term the quality of the legendary fisheries, the water and the scenic characteristics may be dependent on those two tributaries as well as the main stream portion that was deleted from the original proposal.

Our Michigan Department of Natural Resources is eager to work with the U.S. Forest Service through their natural rivers program as they have on the Pere Marquette River.

Once again, I would like to say that we support your recommendation as a good start in protection of this wonderful resource. Thank you for this special opportunity to express our concerns.

Senator WALLOP. Thank you, Sue.

I am going to move now in the interest time to the third panel on S. 1756, which keeps Hope Babcock at the table; Robert Hoffman of the River Conservation Fund; Chris Brown remains; Felix Kujawa, Mississippi Headwaters Board; John Heerwald, State rivers program manager, State of Virginia; Leonard Fremont, president of Rivers Unlimited; Lloyd Nesseth, executive director, Mississippi Headwaters Board.

I have statements for the record from Senators Hatfield, Chafee, Percy, Leahy, and Kasten which will appear at this point in the record.

[The statements follow:]

36-984 O—84——8

SENATOR MARK O. HATFIELD
STATEMENT IN SUPPORT OF S. 416, ADDING THE ILLINOIS AND OWYHEE RIVERS TO THE WILD AND SCENIC RIVERS SYSTEM, AND S. 1756, THE STATE AND LOCAL RIVERS CONSERVATION ACT
BEFORE THE PUBLIC LANDS AND RESERVED WATERS SUBCOMMITTEE OF THE ENERGY AND NATURAL RESOURCES COMMITTEE

March 6, 1984

Mr. Chairman:

I want to thank you for scheduling hearings this morning on S. 416, which proposes to add the Illinois and Owyhee Rivers in Oregon as components of the Wild and Scenic Rivers System, and S. 1756, the State and Local Rivers Conservation Act. I would like first to address myself to S. 416.

Both the Illinois and Owyhee Rivers have been studied by the Forest Service and National Park Service, respectfully, and have been recommended for inclusion into the Wild and Scenic Rivers System. I have proposed for the Illinois River that the segment from the boundary of the Siskiyou National Forest downstream to the confluence with the Rogue River be included in the system. For the Owyhee, I have proposed including the segment from the Oregon-Idaho border downstream to the Owyhee Reservoir. It is my intention to ask the full Committee to adopt my recommendation for the Illinois River, but I am contemplating changes for the Owyhee proposal in that I am considering exempting out the segment from Crooked Creek downstream to China Gulch, as the area is primarily in private ownership.

The trend in demand for outdoor public recreation opportunities in my state is on an upward curve and will most likely continue upward in the future. Both the Illinois and Owyhee Rivers are used extensively by white water enthusiasts and others desiring a natural experience, unimpeded by the influence of man. Both rivers have spectacular natural beauty and receive heavy use during peak seasons. Placing these rivers in the Wild and Scenic Rivers System will help ensure that everyone who desires an uncongested river experience will have the opportunity to do so, as the Forest Service and Department of Interior will formulate management plans that serve the needs and desires of river users and, at the same time, ensure that the natural beauty is not spoiled.

Both of these rivers are components of Oregon's Scenic Waterways Program, having been placed there by the Oregon legislature. This designation has provided protection from state government action, but will not preclude the Federal Energy Regulatory Commission from issuing hydroelectric permits on rivers in the state program. The 1983 session of the Oregon legislature saw introduction and passage of a bill memorializing Congress to place both the Owyhee and Illinois Rivers in the National Wild and Scenic Rivers System, a further indication of support to protect these rivers in their natural, free-flowing condition.

Turning now to S. 1756, I believe this legislation is greatly needed for many reasons. The bill is designed to bolster the existing 27 state river programs, including Oregon's Scenic Waterways Program. The bill would accomplish this by complementing the Federal Wild and Scenic Rivers Program by providing grants to states for establishment and administration of state river programs, development of river management plans and demonstration projects, and conservation of lands along rivers. Funds for river protection and management would be passed along to state and local levels to help provide incentives to protect and enhance river protection, and do so with little federal involvement.

One of the main reasons I agreed to cosponsor this legislation is the fact that this bill gives both state and local interests, for the first time, a real voice in protecting rivers. The legislation provides a mechanism for states to concur in federal river development projects on a limited number of rivers set aside for conservation purposes. I can say with great certainty that in Oregon, there has been a great deal of frustration with federal agencies who ignore local and state concerns over placement of hydroelectric projects on rivers that possess unique qualities worthy of preservation, not development.

In short, this measure is long overdue and very worthy of consideration by the Energy and Natural Resources Committee and the Congress. I encourage this Subcommittee to favorably recommend passage of this measure, as well as my legislation to protect the Illinois and Owyhee Rivers in my state. I thank you, Mr. Chairman, for the opportunity to express my views here this morning.

John H Chafee

STATEMENT BY SENATOR JOHN H. CHAFEE

BEFORE THE

SUBCOMMITTEE ON PUBLIC LANDS AND RESERVED WATER

REGARDING S.1756,

THE STATE AND LOCAL RIVER CONSERVATION ACT OF 1983

MARCH 6, 1984

Mr. Chairman, it is a pleasure to appear this morning on behalf of S. 1756, the State and Local River Conservation Act, of which I am a co-sponsor.

The rivers in my state provide Rhode Islanders with a proud heritage. The valley of the Blackstone River was the birthplace of the Industrial Revolution - many of the canal locks, mills and dams remain today. In addition to this cultural heritage there are outstanding natual features including marshes and the Tupperware Gorge. The Wood + Pawcatuck ~~rivers also~~ Rivers have historical, ecological, and recreational importance to our citizens today.

a/so

The National Park Service has recently been involved in assisting state agencies and local citizens in assessing the river resource and developing conservation strategies on both the Wood-Pawcatuck and the Blackstone Rivers. The interest generated by these studies, including the recent birth of a Wood-Pawcatuck Watershed Association, convinces me that we at the federal level need to create some incentives to support both state government and local citizen efforts to develop river conservation plans.

S. 1756 provides such incentives. Both the grants program (Section 301) and the Assessment provision (Section 302), as well as the clarification of existing tax law contain in Section 601 will give a boost to the promising initiatives we now have for river conservation in Rhode Island. I am particularly supportive of the concept of matching funds which Sections 301 and 303 contain; such judicious use of federal funds will create the "carrot" to help get these projects off the ground,

I believe it is in all our interests to see the nation's rivers better protected. I want to commend my colleague Senator Durenberger for his pioneering work in this area and urge speedy passage of S. 1756.

STATEMENT OF SENATOR CHARLES PERCY

BEFORE THE

SUBCOMMITTEE ON PUBLIC LANDS AND RESERVED WATER

REGARDING S. 1756

March 6, 1984

Mr. Chairman, as a co-sponsor of S. 1756 I wish to voice my support for this bill, the State and Local Rivers Conservation Act. S. 1756, if passed, it would assist in the conservation of Illinois rivers in many ways.

Illinois is partially bordered by the Mississippi, Ohio and Wabash Rivers. It has many other rivers and streams which support diverse fish, fauna and many species of amphibians, reptiles, invertebrates and aquatic plants. Some streams have rare or unusual species. Wetlands also provide habitat for large populations of water fowl and other wildlife.

Recent river conservation efforts in Illinois include an inventory of the more than 2,000 streams in the state conducted by the Illinois Department of Conservation. The inventory will make it easier to develop stream management policies and provide data to concerned state and federal agencies and groups.

Through its Grants Program (Section 301) the State and Local Rivers Conservation Act will provide invaluable assistance to Illinois in its efforts to develop a state stream conservation program. This section may also stimulate the initiation of local stream conservation efforts to complement several urban waterfront renewal efforts already underway.

I hope the Committee will give S. 1756 a speedy mark-up and positive recommendations.

STATEMENT OF SENATOR PATRICK LEAHY

BEFORE THE

SUBCOMMITTEE ON PUBLIC LANDS AND RESERVED WATER

REGARDING

S. 1756, THE STATE AND LOCAL RIVER CONSERVATION ACT OF 1983

MARCH 6. 1984

Thank you, Mr. Chairman, for the opportunity to express my strong support for S. 1756, the State and Local River Conservation Act.

I join my colleague, Senator Durenberger, in feeling great pride in my state's rivers. Vermont is blessed with a diversity of outstanding streams which provide the fishing, boating, and beautiful landscapes our citizens are so fond of. We also use our rivers, not only for drinking water but also for hydroelectric power generation. Vermont currently relies on hydro for 35% of its power needs.

At the same time, our rivers are threatened. Hydropower which is not part of an overall plan for our rivers may cause irreversible damage to outstanding whitewater and fishing stretches. Wastewater disposal and other water withdrawals similarly may be harmful if not part of an overall scheme.

S. 1756 contains several provisions which will benefit the citizens of my state. First, the grants program will provide the seed money to get fledgling river conservation efforts by our state Agency for Environmental Conservation and such private groups as the Ottauquechee Regional Land Trust off the ground. Second, it will encourage the kind of volunteer conservation activity along rivers that has worked so successfully on Vermont's trail systems under the auspices of the Green Mountain Club and Appalachian Trail Conference. Third, it will rebalance the needs to conserve a few of our finest and best streams.

The development of hydro power sources on our rivers with recent court cases involving the Winooski and Black Rivers has shown just how powerless the states and local citizens are in determining the future on any of their rivers; S. 1756 would restore a more proper balance between the states and the Federal Energy Regulatory Commission by giving the state legislatures and Governor the power to select and then protect a select group of the state's finest rivers.

While the Nationwide Rivers Inventory has identified 740 miles of Vermont's rivers as qualified for the National Wild and Scenic Rivers System, it is unlikely that many or most of those rivers will ever receive national designation. But certain of them do deserve strong conservation efforts. What S. 1756 does is to encourage the states and private organizations to pick up the ball and get the job done themselves. In Vermont we hope this will be a successful balancing act, of the rich hydro potential of our state and the needs to conserve our outstanding streams.

Thank you for the opportunity to express my support for S. 1756.

STATEMENT OF SENATOR BOB KASTEN

BEFORE THE SUBCOMMITTEE ON PUBLIC LANDS AND RESERVED WATER

ON S. 1756

MARCH 6, 1984

Thank you, Mr. Chairman, for the opportunity to voice my enthusiastic support for the State and Local River Conservation Act, S. 1756.

Wisconsin has the longest tradition of river protection of any state in the Union. In 1905, the state legislature prohibited dam building on the Brule River and in 1908, on the Flambea River. Both were subsequently protected as state forests. The state also has a Scenic and Wild Rivers System which protects the Pine, Popple and Pike Rivers and has three components of the National Wild and Scenic Rivers System: the St. Croix, the Namebagon, and the Wolf, within its boundaries. These rivers and many others not officially protected provide wonderful opportunities for swimming, hiking, canoeing and fishing, and constitute one of the state's most important touristic attractions.

I am personally familiar with many of these rivers and efforts to protect them. The wilderness bill which I introduced last year, S. 1610, for example, protects the headwaters of the Pine River. Once adopted, the Wisconsin Wilderness bill will create a new wilderness area known as the "Headwaters of the Pine."

Despite a comprehensive state rivers program, progress in protecting specific rivers has moved slowly in Wisconsin due to landowner concerns and low funding. The State of Wisconsin has nonetheless had success with a number of innovative approaches to river protection. These programs have included the establishment of scenic zones along streams within county forests where timber cutting is restricted and county zoning.

The State and Local River Conservation Act (S. 1756) would be helpful in providing new impetus for the expansion of the state Scenic Rivers Program and other state initiatives such as those described above. In addition, the provision in the Act requiring the concurrence of the state in any federal action affecting state-protected rivers would be very useful in safeguarding those rivers already protected from development.

Thank you for the opportunity to express my support for S. 1756.

## STATEMENT OF HOPE BABCOCK, DEPUTY COUNSEL, NATIONAL AUDUBON SOCIETY, ON S. 1756

Ms. BABCOCK. At least I can delete my introductory remarks this time. In brief, Audubon supports S. 1756 and views the proposed legislation as a needed complement to the Federal system. We agree with the bill's sponsor, Senator Durenberger, that the bill could at low cost greatly expand the number of options for river conservation now available while preserving a measure of local control.

We applaud the provisions of the bill which encourage the use of volunteers in river conservation, which clarify present tax law on donations of riparian lands and which require that federally licensed activities be consistent with State designations.

Sections 501 of S. 1756 perfects the State-designation process under section 2(a)(ii) and puts those efforts on an equal footing with those in the Federal system. Use of a certification system to implement this provision parallels the section 410 certification procedure in the Clean Water Act as well as the procedures in the Coastal Management Act and therefore it has a compelling precedent.

We do, however, have two relatively minor concerns with the proposed bill as drafted that I would like to briefly mention.

First, it is unclear whether lands which are presently included in the Federal wild and scenic river corridor would be covered by the provisions of this bill. Does, for example, section 301(2) imply that a State, other than under section 2(a)(ii), locality or private organization may manage a river within the boundaries of a Federal designation?

Similarly, will a State, to qualify for funding under section 302, have to assess the natural environmental values of rivers that are within the national wild and scenic river system and include those rivers within its priority ratings? Similarly too, the bill's language in section 401(b)(1) could be construed as proposing to turn the management of our Federal wild and scenic rivers over to either volunteer organizations or individual volunteers. Needless to say, these interpretations of S. 1756 cause us some concern.

I am sure that this is not the intent of these sections. I would hope that the committee would agree with me that the responsibility for managing the components of the Wild and Scenic River Systems must remain with the Federal Government for reasons of accountability and effective management of national resources.

Second, why does S. 1756 restrict the definition of approved private organizations, found in section 701(c), to those qualifying for tax-exempt status under section 501(c)(3) of the Internal Revenue Code. Limiting these organizations to those that qualify for tax-exempt status under section 501(c)(3) is to our mind unnecessarily restrictive. Doing this could exclude perfectly qualified organizations under other subsections of 501 of the Tax Code, like gardens.

Only for purposes of receiving tax-free donations, as provided for in section 601 of the bill, is it necessary to restrict the recipients of such largess to 501(c)(3) organizations. Therefore, I would recommend that the reference to section 501(c)(3) in section 701(c) be changed to refer to just section 501.

With these relatively minor corrections to S. 1756, we support its enactment into law.

Thank you very much.

Senator WALLOP. Thank you. Bob.

## STATEMENT OF ROBERT C. HOFFMAN, DIRECTOR, RIVER CONSERVATION FUND

Mr. HOFFMAN. Thank you, Senator. I have submitted a statement for the record which supports the concepts, the mechanisms, the need and I think the strategy of S. 1756. My organization is a nonprofit research and education type based here in town. We really specialize in trying to develop new river conservation strategies, particularly, State, local, and private mechanisms and combinations thereof.

For the past 2 years we have had the opportunity to spend a lot of time working with State governments and trying to identify their strengths and weaknesses, problems and needs, in doing river conservation management. State river programs compared to, I guess, classic conservation theory is truly a mismatch.

There are compromise situations from the word go. They do not have money or resources. They use the less-than-fee tools of zoning and other devices rather than acquisition, the way the Federal Government is more likely to do. It is a messier situation, but given the limitation on resources their strategy is to do the best they can with the resources at hand.

Our observation is that they have a very key problem right now and that problem is there is a public perception that the programs cannot really do what they are set out to do. I think the public believes, I know that we oftentimes believe, that a river protected by a State program just does not really have much in the way of protection.

We have noted numerous instances around the country where permits of various kinds have been issued for rivers that are part of the State programs. These are rivers that were in the program long before the permit was ever thought of. It was not one of these late defense kind of strategies. In my mind and in talking with the States, we have had the chance to submit some detailed questionnaires to the 50 States and we have received 31 responses.

I think the States see a very strong need for some kind of consistency provision or some type of negotiation. I think we all prefer consistency in order to protect those rivers. I think that we need to know that if those tools are going to be valuable tools and if they are going to complement for purposes of the wild and scenic rivers system, that they would have to be able to work. They have to have their own integrity and their own credibility and they would have to be desirable. They would have to have an allure to them so people will want to use those tools and they would have to work well enough so that other States, not just the 27 States that are put together in official programs, but they would have to be able to work.

I think that is really the essence of my statement here and I will be happy to answer any questions.

[The prepared statement of Mr. Hoffman follows:]

# RIVER CONSERVATION FUND

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March 6, 1984

TESTIMONY OF ROBERT C. HOFFMAN, DIRECTOR OF RIVER CONSERVATION FUND, BEFORE THE SENATE SUBCOMMITTEE ON PUBLIC LAND AND RESERVED WATERS, REGARDING S. 1756, THE STATE AND LOCAL RIVER CONSERVATION BILL

Thank you very much for giving my organization the opportunity to make comments before the subcommittee. My name is Robert C. Hoffman, and I am director of the River Conservation Fund, a nonprofit research and education organization based here in Washington. RCF is a non-membership organization dedicated to the preservation of free-flowing rivers and to the development of new alternatives for river conservation, both public and private in nature. The Fund monitors the progress of federal, state, local and private river conservation projects, and I believe we are in a very useful position to comment on the potential impacts of S. 1756, the State and Local River Conservation bill.

My organization has been undertaking a thorough analysis of state level river conservation programs for the past two years. The establishment of such projects was encouraged by Congress when it approved P.L. 90-542, the National Wild and Scenic Rivers Act in 1968. Indeed, the framers of the original Act anticipated that a large share of the burden of protecting America's most valuable rivers and streams would fall to state and local governments. It therefore wrote into the law several authorizations to enable federal agencies and the Congress to assist in the development of non-federal river conservation programs. Among those sections are 2(a)(ii) of the Act which enables the Secretary of Interior to extend federal protection to state-managed rivers, and Section 11 which authorizes the Secretary to assist the states in the development of their own programs.

Since Wisconsin enacted the first state river conservation law in 1965, twenty-seven states have adopted programs to protect rivers. Many of the programs are in fact modeled on the federal legislation. The rivers under their management amount to approximately .4% of the nation's total estimated stream mileage.

State river programs have a number of attractive selling points when they have the support of the state and a certain amount of resources available. They are always less expensive to operate than federal projects; they often are more sensitive to local needs; they have faster turnaround times than do federal projects; and they usually rely on land management techniques other than fee title acquisition and condemnation. State river

designation also often becomes the alternative when opposition to federal action occurs. In many states these conservation plans have been successful in preventing degradation of valuable resources at very low cost and with a high degree of citizen support and participation.

However, it seems that state programs are better known for their shortcomings than for their successes. According to our surveys, states collectively spend less than $3 million per year on administration, planning and management of their river conservation systems. In an average year, less than $1 million of state funds are used to acquire lands in designated river corridors. Without at least a minimum of funds, state programs become unable to monitor activity in the corridors, address problems and priorities, or to build the public support needed to make these negotiated plans work.

State river conservation efforts also suffer in other ways. Tax laws are written in such a way that tax benefits for the donation of land or interests in land may be available at the state level but not at the federal level. This discrepancy makes it very difficult to sell the advantages of this land management strategy to riparian property owners, who otherwise may be in a position to take advantage of this alternative. Our survey question on this subject, responded to by twenty-eight states, found that twenty-seven support the need for clarification of the tax laws, and that thirteen believe it would have at least a positive impact on their programs.

Most government agencies are queasy about using citizen volunteers to further departmental goals. Our survey found that only fifteen of the states responding use volunteer assistance in their normal program activities, although there is overwhelming support for the development of better volunteer programs. In fact, seventeen states indicate that volunteers could be used for corridor rehabilitation and site development work, while fourteen agencies believed that river studies, assessments, and monitoring activities could be done by volunteers, at least in part.

Several examples exist at the state level which indicate how well river management agencies have used volunteers in their conservation efforts. For instance, citizens in Virginia actually are authorized to undertake river studies to determine a stream's qualifications for future protection. Given the need to stretch scarce resources beyond the breaking point, volunteers can be the part-time staff necessary to permit continued operation of river programs.

The most significant problem faced by state river programs is the public's wavering to negative perception of the agency's ability to manage and to protect a designated stream. State river protection cannot be used as a conservation tool unless the public believes that the tool works. The problem with many state agencies is that they are not part of the

decision-making structure when water resource development projects are being considered. Dams, diversions, channelization, and other potentially catastrophic developments are frequently proposed for rivers which are either in existing conservation programs or are being considered for potential addition. One example that may be cited is the West Branch of the Pearl River in Louisiana, a designated state scenic river which was dredged by the Army Corps of Engineers in spite of state legislation which prohibits such actions. Many state agencies are experiencing deep problems with the small hydropower permitting process which appears to ignore conservation planning by nonfederal agencies.

Another more famous example is that of the South Fork of New River in North Carolina. This river, one of the oldest on the North American continent, was placed in jeopardy by a hydroelectric project, but then given state protection as North Carolina's first designated scenic river. When the Federal Power Commission refused to accede to this expression of local and state concern, the governor of the state requested and received from the Secretary of the Interior designation for the New as a state-managed, federally-designated component of the National Wild and Scenic Rivers Act under Section 2(a)(ii). The designation was still challenged later, although unsuccessfully, in the courts.

The point of this is that both the Wild and Scenic Rivers Act (in Section 11) and the current administration advocate a greater role in the management of natural resources by state and local governments. If these agencies are to be able to accomplish their missions, they must be given the authority and the opportunity to succeed.

S. 1756

Our observations are meant here to underscore the need for federal action to give nonfederal river conservation projects the opportunity to succeed. The people who worked to develop this proposal are well-experienced in managing state and local programs; in negotiating complex and delicate conservation plans between recreationists, landowners, developers and government; in advocating the development of such programs; and in carrying on the business of government. These people, and the River Conservation Fund, were unanimous in wanting to develop new conservation strategies to complement the Wild and Scenic Rivers Act.

The bill was written to challenge state and local governments to authorize stronger programs, but specifically not to create another bureaucracy dependent on the government dole. No funds are included for land acquisition, since that authority is better left up to the Land and Water

Conservation Fund. Interestingly, this is the one clause in the bill that was opposed by a majority of those agencies responding to our questionnaire. A sum of money large enough to draw interest but too small to be useful except when matched one-to-one with state or local funds was added to enable more people to work for river conservation and to assist in the development of management plans, river studies and assessments, and monitoring and enforcement activities. This matching requirement is stiffer than many other federal grant programs.

Sections 301-303 authorizes the expenditure of these grants, but they limit the amount of funds available in any year and to any state. The sections make use of three important concepts in river conservation management: the use of matching grants to draw in only those states willing to make firm commitments and to assure the best use of the funds; the need for statewide assessments in order to help government officials and the public to make informed choices regarding rivers to be conserved or rivers to be developed; and the inclusion in the funding formula of a provision to assure that the scarce funds would at least partly be allocated to the states where the largest mileages of free-flowing rivers still exist. We believe strongly that government should put its money where the rivers are.

Clarifications of federal tax language in Section 601 and the inclusion of incentives to promote the use of volunteers in Section 401 were added to better coordinate federal, state, and local action and to bring river conservation laws into line with other federal natural resources conservation programs.

The provision in Section 501 to permit states to approve federal actions which may affect designated state rivers was added to give these programs authority, integrity, and credibility.

The Secretary of the Interior was given the authority in Section 301(g) to issue guidelines or regulations to assist in the implementation of this program. Twenty of the twenty-six states responding to a question on this point suggest that an advisory committee with at least some state agency representation be established to assist the Secretary in the development, of qualification criteria, guidelines, and regulations. River Conservation Fund recommends that this suggestion be approved.

We fully expect that the qualification criteria for state and local governments will be stiff. They should be. The federal government should demand an efficient and effective effort by nonfederal agencies in return for the grant funds and the language to require federal agencies to act in a manner consistent with the purposes for which protected rivers were designated.

One of my colleagues has said that S. 1756 is a concept bill. It patches together a small amount of funds, a regulatory authority grant, and clarification and application of existing law in order to stimulate the development of cost-effective conservation planning. It is not a giveaway; it is nothing more than the barest of incentives designed to give state and local governments a larger say in the management of their water resources. River Conservation Fund fully supports the concept, the purposes, and the basic mechanisms in S. 1756, and we hope that the subcommittee will also recognize these merits.

RCF will be happy to provide the subcommittee with additional information regarding the operation of state river conservation programs, and we will make our detailed study of these programs available to you upon completion within the next two months. Thank you again for giving us the opportunity to make this statement.

Senator WALLOP. Thank you, Mr. Hoffman.

**STATEMENT OF CHRISTOPHER N. BROWN, CONSERVATION DIRECTOR, AMERICAN RIVERS CONSERVATION COUNCIL, ON S. 1756**

Mr. BROWN. I am going to speak very briefly, because we have people here from out of town. I will say that we are very supportive of this bill. We have worked with Senator Durenberger in developing the concepts in the bill. We feel it is really a state of art in what needs to be done to support, other than Federal, river conservation.

There is one very small correction I would make in section 601, tax incentives. I think it would be more accurately entitled "clarification of existing tax legislation." It is not a new tax provision. It more clearly defines it, since this section is not a rewriting of the tax code but rather an amplification of the concepts. I would hope the committee would take a look at that.

We have now 15 cosponsors to the bill from four corners of the country, New Mexico, North Dakota, and the midwest. We have seen support for this bill all over the country and I think the witnesses who will follow me here will be giving you reasons why the bill has gathered support from all over the country.

Thank you.

**STATEMENT OF FELIX KUJAWA, VICE CHAIRMAN, MISSISSIPPI HEADWATERS BOARD**

Mr. KUJAWA. My name is Felix Kujawa. I am a county commissioner from Washington County, MI. I am here today on behalf of the board, to urge your support of Senate S. 1756. The bill would provide among other things the cost share program for State and local governments as well as qualified private, nonprofit organizations.

By the way of background, the Mississippi Headwater Board is an organization of eight counties in northern Minnesota which decided to cooperate to develop an affinity plan for the protection and management of the upper 400 miles of the Mississippi River. The board was initially organized under Minnesota's Joint Power Act which allows local units of government to cooperate with one another in a variety of activities, including natural resource planning and management.

The board was formed in 1981 in response to the proposed administration of the upper 466 miles of the Mississippi as a national wild and scenic river by the National Park Service. The county successfully developed a management plan for protection of the river. This plan received widespread public support from groups as diverse as wood product companies to the State AFL–CIO and environmental groups to the National Rifle Association. The Mississippi Headwater Board plan also received strong bipartisan support for the congressional delegation, the Governor, the attorney general and State legislators.

In the face of the comprehensive program imposed by local government to be implemented by existing local, State and Federal land management agencies, the U.S. Department of the Interior agreed to shelf its proposal. The point I want to make here is that the Mississippi Headwater Board has taken its job of protecting the national significant resource seriously. We have done a good job. We could do even better if some Federal cost share assistance, such as that proposed in S. 1756 were available.

From a national policy perspective the benefits are two-fold. The board's public interest is accommodated by the protection of the nationally significant resource. The cost savings are enormous. Just for the upper Mississippi, the United States Department of the Interior staff estimates that the project costs were $50 million.

We believe that S. 1756 with its provision for cost shares assistance as well as other important policy provisions would be a good start in fostering cost effective approaches to protecting river corridors.

Thank you, Mr. Chairman.

Senator WALLOP. Thank you, Mr. Kujawa.

Mr. Heerwald.

## STATEMENT OF JOHN F. HEERWALD, PLANNER, VIRGINIA DIVISION OF PARKS AND RECREATION

Mr. HEERWALD. I am John Heerwald of Richmond, VA. I am employed as a planner by the Virginia Division of Parks and Recreation, the agency most directly responsible for the implementation of the Virginia Scenic Rivers program. I have been professionally involved in the implementation and administration of this program for approximately 10 years now.

The Virginia Scenic Rivers system currently consists of 10 river segments, each designated by an individual act of the General Assembly. We are also in the process of inventorying, evaluating and ranking potential future additions to the system. It is because of our interest and continuing involvement in the field of river conservation that we in Virginia have taken an active interest in S. 1756.

Having analyzed it, we are of the opinion that 1756 contains provisions which offer both immediate and long-range benefits to the river conservation efforts in the Commonwealth. I am going to just briefly say that section 301, which provides grants for State and local and private river conservation efforts, section 303, which provides grants to the States for inventory and assessment, section 401 which encourages volunteer river conservation efforts; and section 601 which establishes tax incentives for easement donations along scenic rivers are all expected to yield significant long-term benefits to river conservation activities in the Commonwealth of Virginia.

However, the most significant provision of S. 1756, in our opinion, is section 501. Section 501 would protect components of a State scenic rivers system from federally licensed, exempted or permitted actions, unless the State approves such actions. Protection from the threat of Federal preemption would substantially enhance the viability and the credibility of Virginia's efforts to plan and provide

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for the long range conservation and wise use of her riverine resources.

I might mention that the most pervasive threat which we face in Virginia is the development of relatively small hydroelectric projects. Since 1980, six preliminary permits and one operating license have been issued by the Federal Energy Regulatory Commission for potential hydroelectric projects, located on previously designated components of the Virginia scenic rivers system.

Although State scenic river designation carries with it a prohibition against dams or other significant impediments to the flow, unless specifically authorized by an act of the general assembly, we are continually faced with the prospect of Federal preemption. Under present law, the very significant efforts, long-term efforts quite often of preparing landowners, citizen conservation groups, local and State units of government and the General Assembly of Virginia to protect the river could quite literally be undone by the efforts of a single hydroelectric developer.

Quite obviously, we would rather that the final determination on an in-State water resource allocation decision rest with the Commonwealth rather than a Federal regulatory agency.

In summary, I would just say that S. 1756 has the potential of being the most significant piece of river-related legislation and would most certainly increase both the scope and the viability of river conservation efforts in Virginia.

Thank you very much.

[The prepared statement of Mr. Heerwald follows:]

TESTIMONY ON S.1756
BEFORE THE UNITED STATES SENATE
SUBCOMMITTEE ON PUBLIC LANDS AND RESERVED WATERS
MARCH 6, 1984

Senator Wallop, members of the Subcommittee, I am John F. Heerwald of Richmond, Virginia. I am employed as a planner by the Virginia Division of Parks and Recreation, the agency directly responsible for the implementation of the Virginia Scenic Rivers System. I have been professionally involved in the implementation and administration of that Program for approximately ten years.

The Virginia Scenic Rivers System currently consists of ten river segments, each designated by a separate act of the General Assembly, and we are in the process of inventorying, evaluating and ranking potential future additions to the System. It is because of our interest and continuing involvement in the field of river conservation that we in Virginia have taken an active interest in S.1756, the State and Local River Conservation Act of 1983.

Having conducted a detailed analysis, we are of the opinion that S.1756 contains provisions which offer both immediate and long range benefits to river conservation efforts in the Commonwealth. I would like to briefly address five specific sections of the bill from the perspective of their potential impact on Virginia's program.

SECTION 301: GRANTS

Section 301 provides for the establishment of a $5,000,000 per year grants program, whereby monies would be made available to state and local governments and private nonprofit conservation organizations on a 50-50 matching basis. These funds could be used for a variety of river conservation and management objectives.

In Virginia, citizen conservation groups, as well as governmental conservation agencies, seem to be chronically short of money when it comes to undertaking projects which would require special effort. Section 301 would provide some much needed seed money for such special efforts. There are currently interest groups on two of our more important rivers that could use this type of incentive.

Over time, it is expected that these grants would noticeably increase river conservation activities in Virginia.

SECTION 303: GRANTS FOR ASSESSMENTS

As I mentioned earlier in my testimony, Virginia has a river inventory and assessment well underway. Due to limited staff and funding, however, we are still several years away from the completion of our baseline effort. The availability of a one time 75 percent federal grant, as provided for in Section 303, could enable us to bring a completed product on-line much quicker than might otherwise be possible.

SECTION 401: CITIZEN INVOLVEMENT

Section 401 is designed to encourage volunteer river conservation efforts through the federal provision of training and technical assistance. Such efforts could include organizing and supervising river conservation programs, conducting research and providing river conservation education and training.

Increasing volunteer citizen involvement in river conservation activities can certainly be expected to yield significant long term benefits for the Commonwealth.

SECTION 501: STATE CONCURRENCE

Section 501 would protect components of a State Scenic Rivers System from federally licensed, exempted or permitted actions, unless the State approves such actions. We view this as the most valuable provision of S.1756. Protection from the threat of federal preemption would substantially enhance the viability and credibility of Virginia's efforts to plan and provide for the long range conservation and wise use of her riverine resources.

Since 1980, six preliminary permits and one operating license have been issued by the Federal Energy Regulatory Commission for potential hydroelectric projects located on designated components of the Virginia Scenic Rivers System. Although State Scenic River designation carries with it a prohibition on the construction, operation and/or maintenance of a dam or other obstruction to the flow, unless specifically authorized by an act of the General Assembly, we are continually faced with the very real prospect of federal preemption, should a potential hydroelectric developer take the

issue to court. Consequently, the very significant efforts of the riparian landowners, citizen conservation groups, local and state units of government and the General Assembly to protect a river, could quite literally be undone by the efforts of a single hydroelectric developer.

Quite obviously, we would rather that the final determination on an in-state water resource allocation decision, rest with the Commonwealth rather than a federal regulatory agency.

SECTION 601: TAX INCENTIVES

Virginia has an active and successful conservation easement program, administered by the Virginia Outdoors Foundation. Unfortunately, there are ambiguities in the federal tax laws relative to "donations for conservation purposes". Section 601 would specifically establish the eligibility for tax deduction of gifts of land or easements on land along rivers included in federal, state and local scenic river programs. The incentive to easement donations provided for in this section should, over time, result in the protection of a substantial amount of land along our most outstanding riverine resources.

In summary, I would say that S.1756 has the potential of being the most significant piece of river-related legislation since the passage of the National Wild and Scenic Rivers Act almost two decades ago. It would most certainly increase the scope and viability of river conservation efforts in the Commonwealth of Virginia.

**STATEMENT OF LEONARD H. FREMONT, PRESIDENT, RIVERS UNLIMITED, CINCINNATI, OH**

Mr. FREMONT. Thank you, Senator, for this chance to give our views. I am an engineer and an industrial distributor from Cincinnati. I am also president of an Ohio statewide group called Rivers Unlimited, which was founded in 1972 to protect Ohio's remaining natural free-flowing rivers.

We represent here about 40 organizations in the State with varying interests from scientific, biological, farm groups, conservation groups and we operate to help member groups to get their rivers into the national and into the State scenic river systems. We also represent here today the State of Ohio, who could not make it, but have expressed their views on this bill in a letter to our Senators as follows:

As the bill now stands, it provides an important incentive for local governments and qualified conservation organizations to assume a greater role in the protection and preservation of Ohio's streams and rivers. This is a very low cost matching fund approach, which possesses the necessary language to ensure that public moneys will reach a State and local level and be utilized in a meaningful way without loss to administrative overhead or other reductions in the grant money's effectiveness.

This bill can be an important assist to Ohio's long-term leadership role among the States in pursuing responsible local community oriented river preservation goals.

In a nationwide inventory matrix list, this is Ohio, it includes some 71 stretches of rivers about 2,600 miles. Our testimony filed with you includes this map and nominates the various rivers. These rivers are selected not only by the State department of natural resources, but by the various river interests in the State over a several year period.

At present we have under protection in the State 547 miles of the State's 42,000 miles. This includes nine stretches of river, which amounts to 1.3 percent of Ohio's stream mileage. It has taken 16 years to get this nominal protection. At that rate it will be another 50 years before we get the 30 rivers specified in the nationwide inventory and about 120 years to get all 71 that we Ohioans have selected in this inventory matrix.

We feel that without this bill, which by the way we obviously endorse, or one with its provisions we shall assuredly lose many of the streams that are, we believe, much more valuable in their natural state than they are converted to channels, ditches or impoundments.

These values include the protection of surface and aquifer drinking water quality and supply. We have a heavy industrialized and agricultural state and water quality is a very serious consideration in Ohio. For recreation, for fishing, hunting, picnicking, canoeing, rafting, tubing, swimming, hiking, cross-country skiing, and camping.

The commercial value is sometimes overlooked. There is tourism, there is liveries, even in Ohio. There is trapping, there are outfitters, resorts. We have noticed that property values are enhanced along State scenic rivers. There are vacation homes that are built

along them after they come under some form of protection. This, in addition, of course, to the archaeological, historical, geological, and national environmental values.

We think the bill as written will help carry out the national intent to preserve the outstanding and remarkable values of certain rivers. We feel that Ohio's share of the moneys from the bill will generate many times its seed value through the national fund provision, through encouraged donations and through our great proliferation of volunteer effort.

We think that S. 1756 will really bring in considerable gifts of land and conservation easements along these rivers and will assure the permanence of the contributions that land owners make to prospective donors to the State. Landowners are much more——

Senator WALLOP. Could I ask you to summarize your statement?

Mr. FREMONT. I am very sorry. That does say it pretty much. I want to make one small statement. Nearly all landowners fear loss of control of their land and their options to Federal or State control, thus they have been reluctant so far to seek formal protection of their streams. Only in desperation at losing their land have some embraced inclusion in the State system. Local preservation efforts are very much encouraged by this bill and we do not have much of that right now and we need it.

Thank you very much. I am sorry to be over time.

[The prepared statement of Mr. Fremont follows:]

**Rivers Unlimited** 3012 Section Road • Cincinnati, Ohio 45237

*Since 1972, to preserve Ohio's remaining natural, free-flowing streams*

March 6, 1984

Senator Malcolm Wallop, Chairman
Public Lands and Reserved Water Subcommittee
Senate Energy and Natural Resources Committee
Washington, D.C. 20510

Subject: S.1756, STATE AND LOCAL RIVERS CONSERVATION ACT

Dear Senator,

Rivers Unlimited is an Ohio-only organization of some 40 member groups.

We support S.1756 as a significant means of protecting, restoring and enhancing a great natural resource of Ohio.

Of Ohio's 42,000 miles of streams:

2600 miles, 71 stretches, were identified by the State of Ohio and natural resource specialists as having attributes worthy of inclusion in the Nationwide Inventory of Rivers as "Recreational" rivers (see map attached);

1189 miles, 30 stretches, are listed by the U.S. Dept. of the Interior in the Inventory

125 miles, 2 stretches, are in the National Wild and Scenic Rivers System.

547 miles, 9 stretches, including the 2 national rivers, are in the Ohio Scenic Rivers System.

The latter 547 miles, or 1.3% of Ohio's stream mileage, are all we have under even rudimentary protection.

It has taken 16 years to give nominal protection to 9 river stretches. At this rate it would be another 50 years before we could include the 30 in the Inventory, and maybe 120 years for the entire 71 we Ohioans selected.

Without the bill or one with its provisions, we shall assuredly lose many of these streams that are, we believe, much more valuable in their natural state than converted to channels, ditches or impoundments. These values, in our state, include

- protection of surface and aquifer drinking water quality and supply

- recreation: fishing, hunting, canoeing, rafting, tubing, swimming, picnicking, hiking, cross-country skiing, camping

- commercial: tourism, liveries, trapping, outfitters, resorts, enhanced property values, vacation homes.

- and the archaeological, historical, geological and natural environmental values.

Ohio's natural resource specialists, who contributed to the survey for the Inventory, include the Ohio Biological Survey, the Ohio Historical Society, the Buckeye Trails Association, the U.S. Canoe Association, various park districts and regional planning commissions. They can be expected to endorse S.1756 as well as the very large constituency in Ohio which includes hunters, fishermen, livery owners, riverfront landowners and conservation organizations.

This bill, we believe, will help carry out the national intent to preserve the "outstandingly remarkable" values of certain rivers. In Ohio it will encourage our Department of Natural Resources and volunteers to greater and more organized efforts to protect our special streams. Such national sanction will convince people that their work under this program will not be set at nought by adverse developments along the selected rivers.

We expect that Ohio's share of monies from the bill will generate many times its seed value - through the matching funds provision, through encouraged donations and a proliferation of volunteer effort.

The bill has been endorsed by the Ohio Department of Natural Resources, which cooperated in the design of the bill. We believe they will state, as we do, that S.1756:

- will bring in gifts of land and conservation easements along Ohio's rivers,

- will assure permanence of their contributions to prospective donors, including institutions. The tax incentives speak for themselves

- will stimulate river-protective zoning along our rivers

- will help educate and organize volunteers who care about their rivers

- will make river protection more voluntary, less bureaucratic, less costly, more in the hands of the people. Nearly all land owners fear loss of control of their land and their options to federal or state control, thus they have been reluctant to seek formal protection of their streams. Only in desperation at losing their land have some embraced inclusion in the State Scenic River System to protect their interests.

- will encourage our state legislature to continue its recognition of natural rivers, beginning in 1968 with the Ohio Scenic Rivers Act.

Rivers Unlimited, as a 501 (c) (4) organization is not a qualifying conservation organization under S.1756, so we would not be eligible for funding.

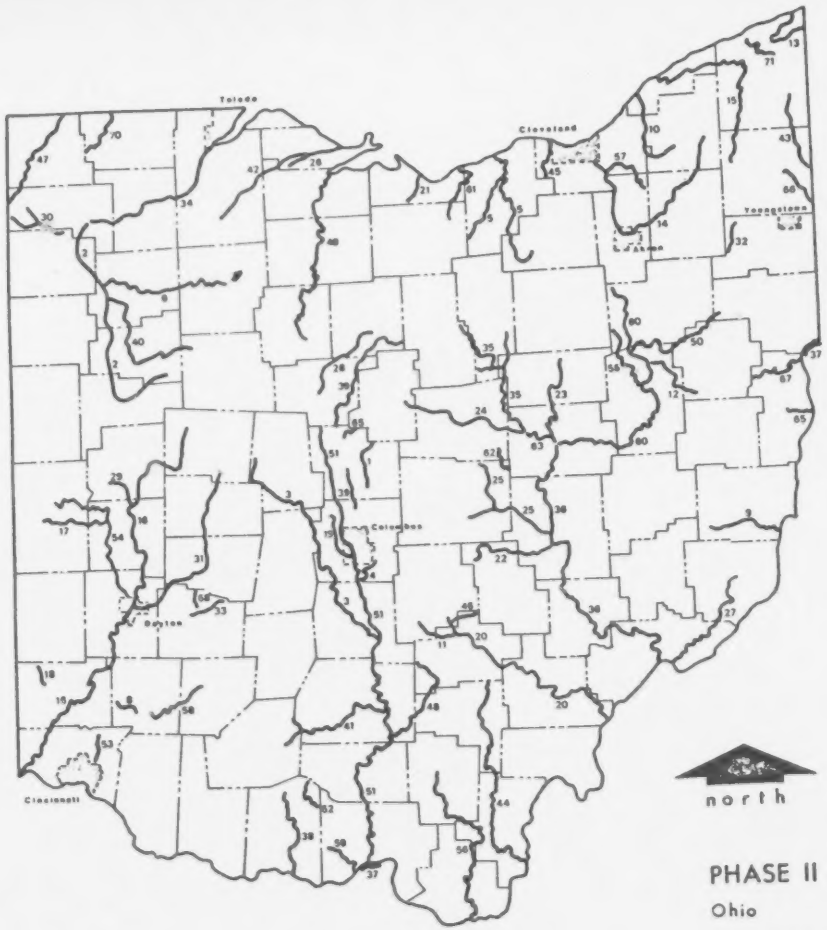
We wish to thank the sub-committee for any consideration it gives our views.

Sincerely,

Leonard H. Fremont
President

LHF/bkf

cc Senators Glenn and Metzenbaum




| NUMBER | RIVER | LOCATION |
|---|---|---|
| 1 | Alum Cr. | NW |
| 2 | Auglaize | NW |
| 3 | Big Darby Cr. | SW |
| 4 | Big Walnut Cr. | SW |
| 5 | Black | NE |
| 6 | Blanchard | NW |
| 8 | Caesar Cr. | SW |
| 9 | Captina Cr. | SE |
| 10 | Chagrin | NE |
| 11 | Clear Cr. | SE-SW |
| 12 | Conotton Cr. | NE |
| 13 | Conneaut Cr. | NE |
| 14 | Cuyahoga | NE |
| 15 | Grand | NE |
| 16 | Great Miami | NW-SW |
| 17 | Greenville Cr. | SW |
| 18 | Harbare Run | SW |
| 19 | Hayden Run | SW |
| 20 | Hocking | SE |
| 21 | Huron | NW-NE |
| 22 | Jonathon Cr. | SE |
| 23 | Killbuck Cr. | NE |
| 24 | Kokosing | NE |
| 25 | Licking | NE-SE |
| 26 | Sugar Cr. | NW |
| 27 | Little Muskingum | SE |
| 28 | Little Scioto | NW |
| 29 | Loramie Cr. | NW-SW |
| 30 | Lost & Gordon Cr. | NW |
| 31 | Mad | SW |
| 32 | Mahoning | NE |
| 33 | Manoires Cr. | SW |
| 34 | Maumee | NW |
| 35 | Mohican | NE |
| 36 | Muskingum | NE-SE |
| 37 | Ohio | NE-SW |
| 38 | Ohio Brush Cr. | SW |
| 39 | Olentangy | NW-SW |
| 40 | Ottawa | NW |
| 41 | Paint Cr. | SW |
| 42 | Portage | NW |
| 43 | Pymatuning | NE |
| 44 | Raccon Cr. | SE |
| 45 | Rocky | NE |
| 46 | Rush Cr. | SE |
| 47 | St. Joseph | NW |
| 48 | Salt Cr. | SW-SE |
| 49 | Sandusky | NW |
| 50 | Sandy Cr. | NE |
| 51 | Scioto | NW-SW |
| 52 | Scioto Brush Cr. | SW |
| 53 | Sharon Cr. | SW |
| 54 | Stillwater | SW |
| 55 | Sugar Cr. | NE |
| 56 | Symmes | SE |
| 57 | Tinkers Cr. | NE |
| 58 | Todd Fork | SW |
| 59 | Turkey Cr. | SW |
| 60 | Tuscarawas | NE |
| 61 | Vermilion | NE |
| 62 | Wakatomica Cr. | NE-SE |
| 63 | Walhonding | NE |
| 64 | Whetstone Cr. | NW |
| 65 | Wills Cr. | NE |
| 66 | Yankee Cr. | NE |
| 67 | Yellow Cr. | NE |
| 68 | Yellow Springs Cr. | SW |
| 70 | Tiffin | NW |
| 71 | Ashtabula | NE |

NOTE

NE - Indicates river is located in northeast quadrant of state

SE - Indicates river is located in southeast quadrant of state

NW - Indicates river is located in northwest quadrant of state

SW - Indicates river is located in southwest quadrant of state

# PHASE II INVENTORY RIVERS

## Ohio

Lake Central Region

Heritage Conservation and Recreation Service

## STATEMENT OF LLOYD E. NESSETH, EXECUTIVE DIRECTOR, MISSISSIPPI HEADWATERS BOARD

Mr. NESSETH. Mr. Chairman, my name is Lloyd Nesseth. I am the executive director of the Mississippi Headwaters Board. The board is an interlocal effort to protect the upper 400 miles of the Mississippi River in Minnesota.

I am here today to express support for and urge passage of Senate bill 1756, a bill which would, among other things, provide a cost sharing assistance to State and local governments that are willing to undertake river conservation programs.

From our perspective, S. 1756 would be a significant start toward the stimulating State, local, and private sector initiatives in river conservation.

In our case, the job of protecting the upper 400 miles of shorelines of the Mississippi River as well as literally hundreds of miles of headwaters lakeshore has proven to be quite challenging.

Our river protection challenge could hardly have been more complex. In addition to the sheer geographic size of the management area, there is a patchwork quilt of Federal, State, local and private land ownerships and a myriad of governmental jurisdictions.

The Headwaters Board Program is but one example of the possibilities for river protection which would likely be encouraged through this legislation.

Undertaking such river protection efforts requires a commitment of time and money. We believe that it is appropriate for the Federal Government to be a partner with the States, the local governments, and the private sector in such investments.

The point here is that non-Federal entities, committed to responsible river conservation and armed with even modest financial resources can and will do the job.

The cost savings resulting from non-Federal approaches can be enormous. For example, the Mississippi Headwaters Board Management Program costs approximately $160,000 per year, of which one-half is provided by the counties and the other half is provided by the State through a matching grant. This represents less than 1 percent of the $52 million project cost estimated by the U.S. Department of the Interior if the National Park Service's plan was implemented for the same river segment.

We realize that the authorization contained in the bill is very modest, particularly for a nationwide initiative and we wish that the limitation on the use of in-kind match by State and local governments and the private sector was not so tight. However, we agree with the authors that a conservative approach is in order for a new concept such as this.

We are confident that should the program envisioned under S. 1756 be passed, the Congress will find, as we have, that such alternative river conservation efforts can yield huge benefits at a minimal cost.

I appreciate the opportunity to be here today. Thank you.

Senator WALLOP. Thank you, Mr. Nesseth.

Before I get to the next panel on this bill, let me just say, as is often the case when you sit on this side of the table, you see bud-

ding inconsistencies growing around out there, which I will need your help to resolve.

I think, Chris, you expressed it by saying that you did not think that the wild and scenic rivers were necessarily a two-way street with regards to legislative states in S. 1084. Yet, in here, in this bill S. 1756, there is a legislative provision, which would seem inconsistent with that concept.

I think you have to have it. You folks said that the responsibility of management must remain with the Federal Government and you cannot consistently remove one of their responsibilities while assigning them the rest.

I wonder how you would react, and I think in the interest of time I will ask you to submit to me your thoughts, about the responsibility of changing the statement in the veto provision in section 501 to consultation instead of concurrence. I think I can see the point, but I am stuck between the two concepts that are here.

With that, I would thank you all for your testimony here. There is yet one other panel in which some of you are going to testify, but we will have the remaining panel on this subject.

Mr. BROWN. Mr. Chairman, if I could just mention I neglected to say that I was speaking also on behalf of the National Parks and Conservation Association and the National Recreation and Parks Association, who are in support of S. 1756.

Senator WALLOP. Thank you very much.

Now, we have David Conrad, Friends of the Earth; Guy Jones, Save our Saluda and Sierra, South Carolina; Mary Scoonover, the Sierra Club, Washington, DC; Mike Priesnitz, president, Foresight Consulting, Inc.; Chris Meyer, National Wildlife Federation; and Charles Morrison, chief of State River Programs.

## STATEMENT OF MARY SCOONOVER, WASHINGTON REPRESENTATIVE, THE SIERRA CLUB

Ms. SCOONOVER. Mr. Chairman, I am Mary Scoonover. I appreciate the opportunity to comment for the Sierra Club on S. 1756, the State and Local Rivers Conservation Act.

In 1968, the people of this country, through their elected representatives, decided a balance needed to be struck between competing river uses. Congress declared that the established national policy of dam and other construction at appropriate sections of the rivers of the United States needs to be complemented by a policy that would preserve other selected rivers or sections thereof in their free-flowing condition to protect the water quality of such rivers and to fulfill other vital national conservation purposes. This balance is the basis for the Wild and Scenic Rivers Act.

The Act stated it to be the policy of the United States that certain rivers which with their immediate environments possess outstandingly remarkable scenic, recreational, geologic, fish and wildlife, historic, cultural or other similar values shall be preserved, in a free-flowing condition and that they and their immediate environments shall be protected for the benefit and enjoyment of present and future generations.

Eight rivers were originally protected under the 1968 act. Since that time, the system has grown to include 61 rivers or segments of

rivers in 23 States, 26 of these rivers are located in Alaska. These additions, however, fall far short of the original target estimate of protecting 100 rivers in a decade.

Currently the National Wild and Scenic Rivers System is providing protection for only 7,000 of the 60,000 miles of river that the National Park Service identified as possessing such exceptional natural values as to make them potentially eligible for inclusion in the National System. The Federal Government is not protecting a large number of unique rivers under the present system. Some States have established river programs of their own to try to fill this void.

There are 28 official State programs and individual river designations in other States giving some level of protection to 265 streams totaling 11,104 miles in length. In general, these programs are underbudgeted and severely understaffed. Programs like Minnesota's Mississippi Headwaters Board are most successful.

These programs work hardest to involve local officials, landowners, and conservationists in decisionmaking. Other States with effective programs include New York, Michigan, and Ohio, for example. S. 1756 will complement the National System by providing support for these State, local, and private contributions to river conservation.

The act is designed to bolster these State river programs by providing support for the programs and creating incentives for private-public cooperation on river conservation at a local level. The act encourages volunteer activities in river conservation, provides for statewide river assessments, protects rivers in State programs from federally licensed water projects unless the State concurs and clarifies ambiguities in tax laws to allow donated lands along protected rivers to qualify for tax deductions.

The goal of the Wild and Scenic Rivers Act of balancing preservation and development is not a particularly easy one with 30,000 miles of the Nation's rivers flooded behind dams. However, the act itself provided the first mechanism for protection and with support of State river systems through efforts like S. 1756 we can begin to protect the remaining rivers.

Our rivers system provides us with an historic and cultural recording, an opportunity for recreation, a sampling of cultural recording, an opportunity for recreation, a sampling of riparian wildlife habitat, and a commitment to preserving the water and free-flowing nature of this country's rivers.

Representatives from local Sierra Club chapters are presenting testimony on the other three bills pending before you today. We would also like an opportunity to submit testimony for the record for those rivers for which there is not a Sierra Club spokesperson here today.

We appreciate the Senate scheduling these hearings and I am pleased for the opportunity to speak to this committee. Thank you.

Senator WALLOP. Thank you.

David Conrad.

## STATEMENT OF DAVID R. CONRAD, WASHINGTON REPRESENTATIVE, FRIENDS OF THE EARTH, ON S. 1756

Mr. CONRAD. Mr. Chairman, in the interest of time, I will just state that the Friends of the Earth strongly support S. 1756 in its prepared remarks, which I made available for the record.

I feel that all of the elements that would make a very good assistance to State and local river conservation are there, and I would hope that the subcommittee could report the bill as soon as possible with whatever modifications or clarifications need to be made.

Senator WALLOP. Thank you.

Guy Jones.

## STATEMENT OF GUY JONES, SAVE OUR SALUDA, INC., AND THE SOUTH CAROLINA CHAPTER, SIERRA CLUB

Mr. JONES. Thank you, Mr. Chairman, for the opportunity to appear and testify today. My name is Guy Jones and I am representing Save Our Saluda, Inc. and the South Carolina Chapter of Sierra Club. Save our Saluda is a citizen's group of about 1,000 members who are interested in preserving the natural resources, located near Columbia, SC.

We have a very nice river called the Saluda. It is an urban river and has high water quality attributes and provides multiple recreational and scenic values. It flows into Columbia where the Saluda and Broad Rivers combine to form the Congaree River.

South Carolina has a State scenic rivers program which is administered by the South Carolina Water Resources Commission. This program has been in existence for 10 years, and has never had a line item budget. We had a program manager for about 1 year. I believe that the lack of specific funding and the lack of awareness has attributed to the fact that we have not been able to protect very many rivers in South Carolina so far. We have been only able to protect five miles of one river which is in a State park.

We feel that S. 1756 would be the best opportunity we have to rejuvenate our State and local program and we support it very much. We are beginning to see a lot of public interest and enthusiasm for our State program. The Water Resources Commission is beginning to devote a little more attention to it. A new commitment is beginning to emerge.

We believe that the matching grants proposal under 1756 would be quite cost effective in assisting with the work of river protection. The bill would give local government and organizations help to obtain help which would make the process of building local support and citizen effort much easier.

We would like to suggest that the subcommittee consider in-kind contributions at a rate higher than 10 percent, if possible, since most of a typical citizen's group effort is of a noncash nature. We think the returns from grants to local groups can be expected to be high, because these organizations usually operate on very small budgets and have learned to spend wisely and efficiently.

The section 301 for demonstration projects would be very timely for us in South Carolina. We realize that we have got to put a river into our program and make it a model case to ensure that we will

have a reliable program down the road. The commission is interested also in doing an assessment of state rivers under section 303 and we would also like to say that we really like the volunteer assistance provision under section 401 of the bill.

Finally, we think that the State and Local River Conservation Act is an appropriate and workable method to help achieve the important national goal of protecting our flowing waterways.

Thank you again for the opportunity to voice our support for this legislation. Thank you, Mr. Chairman.

[The prepared statement of Mr. Jones follows:]

Testimony of Guy Jones of Save Our Saluda, Inc.
Senate Public Lands and Reserved Waters Subcommittee
S.1756 - State and Local River Conservation Act of 1983

March 6, 1984

Thank you for the opportunity to appear and testify today. My name is Guy Jones, and I am representing Save Our Saluda, Inc. and the South Carolina Chapter of Sierra Club. Save Our Saluda is a citizen's group of about 1,000 members who are interested in preserving the natural resources of the Saluda River near Columbia, South Carolina.

The Saluda is an urban river with high water quality and multiple recreational and scenic values. It flows into the center of Columbia where the Saluda and Broad Rivers combine to form the Congaree River, which later flows by Congaree Swamp National Monument, a unit of the National Park Service system. In 1980, a proposal to dam the Saluda led to intense public concern and interest in the protection of this and other local rivers. Citizen efforts caused the dam proposal to be shelved, and currently our organizations are seeking effective methods to preserve and manage our valuable riverine areas.

South Carolina has a state scenic rivers program which is administered by the South Carolina Water Resources Commission. The program was set up in 1974 but has never had a line item budget. In 1979, a federal water planning grant provided for a program manager for about one year. The lack of specific funding and general public knowledge has probably accounted for the poor track record so far: only five miles of some 1,827 potential river miles identified by the NPS River Inventory are protected and managed, and these five are located within a state park.

However, we are now seeing a great deal of public interest and enthusiasm for our state rivers program. Other local groups similar to Save Our Saluda are starting to develop around the state, and a state-wide support organization, the South Carolina Rivers Coalition, is being formed. The Water Resources Commission has indicated a willingness to devote more attention to the scenic rivers program, and has assigned a staff member full time to the program for the past nine months. A new commitment is beginning to emerge.

We believe that the matching grants proposal under S.1756 would be quite cost-effective in assisting with the work of river protection. It would provide our state agency with needed funding and incentive to continue placing the scenic rivers program in an appropriate priority. The ability of local governments and organizations to obtain help would make the process of building local support and citizen effort much easier.

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We would suggest that the Subcommittee consider in-kind contributions at a rate higher than 10% since most of a typical citizen's group effort is of a non-cash nature. The returns from grants to local groups can be expected to be high, because these organizations usually operate on very small budgets and have learned to spend wisely and efficiently.

Our efforts to find ways to protect the Saluda River have turned up many different problems with river management programs, and it is evident that the Saluda needs to become a model case to insure the continued success of our state program. Thus the assistance provided under Section 301 for the development of demonstration projects would be very timely for us in South Carolina.

The South Carolina Water Resources Commission would probably want to do an assessment of state rivers under Section 303. Present information is not adequate and a good assessment would be very helpful in developing the scenic rivers system throughout the state.

We believe that the provisions for volunteer assistance and cooperation under Section 401 are a very good idea and would be quite useful in finding solutions to river conservation problems.

We think that the State and Local River Conservation Act is an appropriate and workable method to help achieve the important national goal of protecting our flowing waterways. Thank you again for the opportunity to voice our support for this innovative legislation.

Senator WALLOP. Thank you, Mr. Jones.
Mr. Priesnitz.

## STATEMENT OF MICHAEL F. PRIESNITZ, PRESIDENT, FORESIGHT CONSULTING GROUP

Mr. PRIESNITZ. My name is Mike Priesnitz. I am president of Foresight Consulting. I would like to thank the chairman for allowing me to testify today in support of S. 1756. I have been actively involved in developing river conservation programs for the last 12 years, both as a State official, a private citizen, and consultant. My consulting work has been with Federal agencies, State and local agencies, and the private sector.

There is a tremendous diversity in the character, use, and quality of these rivers that have been identified under the national inventory. S. 1756 recognizes the diversity of this resource. I think it provides effective incentives for managers, public and private, to develop new and varied strategies to meet these diverse needs.

In my view, S. 1756 is an important initiative that will further a national policy of protecting outstanding, free-flowing streams and it will do so by encouraging the work to be done closer to home where it can be done at a fraction of the current cost.

A few years ago, it was you, Mr. Chairman, who took the leadership in starting an important national dialog about Federal land acquisition and land management alternatives. The workshops you held and in which I was pleased to participate in both, identified issues such as what is the appropriate role for various levels of government in resource management and what alternatives are there protecting nationally significant resources through the use of tools other than fee title acquisition.

I believe S. 1756 is consistent with the basic thrust of these workshops. Specifically, that Federal river designation, fee title acquisition programs, and management should not be the sole tool used for accomplishing resource protection; and further, the Federal Government should encourage the development of new approaches to these river protection issues.

Someone once said that if your only tool is a hammer, pretty soon all your problems start looking like nails. Simply put, S. 1756 recognizes that we need to try some new tools because all the problems are not nails.

Thank you very much, Mr. Chairman.

[The prepared statement of Mr. Priesnitz follows:]

Testimony By
Mr. Michael F. Priesnitz
President, Foresight Consulting, Inc.
Before the
U.S. Senate Public Land and Reserve Waters Subcommittee
Of the
U.S. Senate Energy and Natural Resource Committee
In Support of S.1756

March 6, 1984

Mr. Chairman, members of the committee, my name is Mike Priesnitz and I am president of Foresight Consulting, Inc.

I want to thank the Chairman and the committee members for allowing me to testify today in support of S.1756.

I have been actively involved with developing river conservation programs for over 12 years as both a public official and a consultant. My consulting work has been with federal, state and local agencies, and the private sector.

Literally thousands of miles of free-flowing river have been identified, through the Department of Interior's National Wild and Scenic Rivers System.

There is a tremendous diversity in the character, use and quality of these rivers. S.1756 recognizes this resource diversity and provides effective incentives for non-federal managers, public and private, to develop new and varied strategies to meet these diverse needs.

What S.1756 would do is recognize that there are a variety of ways by which river protection can be accomplished.

In my view, S.1756 is an important initiative that will work to further a national policy of protecting outstanding free-flowing rivers - and it will do it by encouraging the work to be done closer to home and at a fraction of the current cost.

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I further believe it will be effective because it addresses five major issues critical to the success of non-federal river protection strategies, these being:

First, it provides financial incentives to develop land management alternatives;

Second, it encourages active citizen participation in the process;

Third, it stimulates the development of public/private partnerships;

Fourth, it clarifies tax issues which could be barriers to more aggressive private sector philanthropy;

And fifth, it ensures commonality of purpose by public river management authorities.

A few years ago, Chairman Wallop took the leadership in starting an important national dialogue about federal land acquisition and land management alternatives. These workshops, in which I was pleased to be a panelist, examined issues such as the appropriate roles of various levels of government in resource management and alternatives to protecting nationally significant resources through the use of tools other than fee title acquisition.

I believe S.1756 is consistent with the basic thrust of these workshop discussions. Specifically, that federal river designation, acquisition and management should not be the sole tool used for accomplishing this resource protection; and further that the federal government should encourage the development of new approaches.

Someone once said that: If your only tool is a hammer...pretty soon all your problems look like nails! Simply put, S.1756 recognizes the need to try some new tools.

Senator WALLOP. Thank you very much. I do not recall your participation in the workshops, because I do not recall the workshops. I apologize.

Mr. Meyer.

## STATEMENT OF CHRISTOPHER H. MEYER, COUNSEL, WATER RESOURCES PROGRAM, NATIONAL WILDLIFE FEDERATION

Mr. MEYER. Thank you, Mr. Chairman. My name is Christopher Meyer. I am a lawyer for the National Wildlife Federation of Water Resources Program. I will summarize my remarks. S. 1756, the State and Local River Conservation Act is a proposal which responds both to the problems of national river management and provides a complementary solution to existing Federal controls.

With the introduction of this bill, Mr. Chairman, the evolution of river planning in this country has come full circle. From early efforts to place all decisionmaking in the lap of the Federal Government, we have come to a growing recognition that the States too have something to contribute to water resource planning.

At the turn of the century, an absence of planning and coordination and an abundance of speculation and profiteering characterized private water power development. Conservationists and others turned to the Federal Government for a cure. In 1920 Congress passed the Federal Power Act which consolidated within a single Federal agency control over all private development on the Nation's navigable rivers and streams.

The remarkable breadth of this Federal control was soon brought to bear on the States in a landmark court decision. In 1946 a private developer proposed to violate Iowa's ban on interbasin transfers of water by building a massive earthen dam on the Cedar River near Moscow, IA and an 8-mile diversion canal.

The project was to drain all but 25 cubic feet per second of the Cedar's water and transport it out of the watershed to the Mississippi River. Iowa objected and took the matter to the Supreme Court. The Court ruled that in enacting the Federal Power Act, Congress intended to preempt all inconsistent State laws. Iowa lost; the developer built his project and the States over the years have remained impotent to influence private hydroelectric development within their borders.

Senator Durenberger's bill, S. 1756, would recognize for the first time in over 50 years that the States have a legitimate interest in the siting of private hydropower projects on their rivers. If that notion seems novel or remarkable, it is only because for so long Federal law has clung to the extreme position that a State's rivers are none of the State's business. In fact, Senator Durenberger's proposal amounts to nothing more than plain old federalism and good government.

The central premise of the bill, contained in section 501, is that the Federal Government should respect State wild and scenic river programs. At last count some 27 States have adopted local programs for the preservation of river segments of special value and significance to the citizens of those States.

Each one of these programs, however, rests on a very thin reed—the hope that a disappointed developer will never take the State to

court. The fact is that not a one of these State river programs would withstand a challenge under the Supreme Court's decision in First Iowa. The Durenberger bill would change that.

Developers seeking the approval of the Federal Energy Regulatory Commission and other Federal agencies for proposed water projects on State Wild and Scenic River Systems would be required first to obtain the concurrence of the Governor that the project will not adversely affect the State-designated river segment.

No longer would a project applicant be able to circumvent the considered policies of the State by turning to a Federal agency for permission to construct impoundments and diversions on the State's wild and scenic rivers program.

As important as this step is, however, it is also important to recognize how limited is its scope. The Durenberger bill will affect only a small fraction of river segments, those formally designated by the States as part of their respective wild and scenic river systems. Those rivers now constitute 14,000 miles, less than one-half of 1 percent of all river miles in the lower 48 States.

In sum, the Durenberger bill complements both the Federal Power Act and the National Wild and Scenic Rivers Act, which articulate national priorities for river management. The Federal Energy Regulatory Commission will continue to call the shots on the vast majority of non-Federal water projects. The National Wild and Scenic Rivers Act will continue to protect those rivers of national significance and with the enactment of S. 1756, the States too will have a hand in State river management.

Senator WALLOP. Mr. Meyers, I have to ask you to summarize.

Mr. MEYER. I am at the end of my statement, Senator Wallop.

I would also state that I would be happy to respond to the question that you raised earlier regarding the constitutional problem that you foresaw. I will reserve those remarks for the discussion of the panel afterwards, but I would be happy to respond to that.

[The prepared statement of Mr. Meyer and a subsequent submittal follows:]

NATIONAL WILDLIFE FEDERATION
1412 Sixteenth Street, N.W., Washington, D.C. 20036 202—797-6800

STATEMENT OF CHRISTOPHER H. MEYER
COUNSEL, WATER RESOURCES PROGRAM
NATIONAL WILDLIFE FEDERATION

BEFORE THE SUBCOMMITTEE ON PUBLIC LANDS AND RESERVED WATER
COMMITTEE ON ENERGY AND NATURAL RESOURCES

On S. 1756, The State and Local River Conservation Act
March 6, 1984

Mr. Chairman and members of the Committee, my name is Christopher Meyer. I am counsel to the Water Resources Program of the National Wildlife Federation. NWF is the world's largest non-governmental conservation organization, with four million members and supporters, and affiliate organizations in fifty-one states and territories. The Federation has worked actively over the years to promote the wise use and balanced development of our nation's river resources.

I am pleased to have the opportunity to convey our views to the Committee on S. 1756, the State and Local River Conservation Act. The Federation strongly endorses the concepts embodied in the National Wild and Scenic Rivers Act, and welcomes new additions to the national system. My remarks this morning, however, will focus on the creative and complementary response to the problems of river management contained in the Durenberger bill, S. 1756.

With the introduction of this bill, the evolution of river planning in this country has come full circle. From early

efforts to place all decision making in the lap of the federal government, we as a nation have come to a growing recognition that the states, too, have something to contribute to water resource planning.

At the turn of the century, an absence of planning and coordination and an abundance of speculation and profiteering characterized private water power development. Conservationists, developers, municipalities, and others looked to the federal government for a cure. The din and clamor for federal control of river resources grew, and in 1920 Congress passed the Federal Power Act (then called the Federal Water Power Act)[1/] which consolidated in a single federal agency control over all private development on the nation's navigable rivers and streams.

The remarkable breadth of this federal control was soon brought to bear on the states in a landmark court decision. In 1946 a private developer proposed to violate Iowa's ban on interbasin transfers of water by building a massive earthen dam on the Cedar River near Moscow, Iowa, and an eight mile diversion canal. The project would drain all but twenty-five cubic feet per second of the Cedar's water and transport it out of the watershed to the Mississippi. Iowa objected and took the matter up to the U.S. Supreme Court.[2/] The Court

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[1/] Federal Water Power Act of 1920, ch. 285, 41 Stat. 1063 (1920), codified as amended at 16 U.S.C. §§ 791a-825r (1982).

[2/] First Iowa Hydro-Electric Cooperative v. FPC, 328 U.S. 152 (1946).

ruled that in enacting the Federal Power Act, Congress intended to preempt all inconsistent state laws. Iowa lost, the developer built his project, and the states over the years have remained impotent to influence private hydroelectric development within their borders.[3/]

Senator Durenberger's bill, S. 1756, would recognize for the first time in over fifty years that the states have a legitimate interest in the siting of private hydropower projects on their rivers. If that notion seems novel or remarkable, it is only because for so long federal law has clung to the extreme position that a state's rivers are none of the state's business. In fact, Senator Durenberger's proposal amounts to nothing more than plain old federalism and good government.

The central premise of the bill, contained in section 501, is that the federal government should respect state wild and scenic river programs.[4/] At last count twenty-seven

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[3/] The courts have consistently followed First Iowa. The most recent decision is found in Town of Springfield v. McCarren, 549 F. Supp. 1134 (D. Vt. 1982), aff'd by the 2nd Circuit in an unpublished order (Feb. 16, 1983), cert. den'd. 104 S.Ct. 360 (1983).

[4/] The bill contains many other excellent provisions which have the Federation's full support. The grant provisions in sections 301-303 will greatly enhance the ability of the states to manage wisely their river resources. The relatively small investment to be authorized should pay a big dividend in sound planning and balanced development. The citizen involvement and tax incentive provisions, sections 401 and 601, fully recognize the important private contribution to be made by an active citizenry to river conservation.

states have adopted local programs for the preservation of river segments of special value and significance.

Each one of these programs, however, rests on a thin reed--the hope that a disappointed developer will never take the state to court. The fact is, not one of these state river programs would withstand a challenge under the Supreme Court's decision in First Iowa. The Durenberger bill would change that.

Developers seeking the approval of the Federal Energy Regulatory Commission and other federal agencies for proposed water projects on state wild and scenic river systems, would be required first to obtain the concurrence of the Governor that the project will not adversely affect the state-designated river segment. No longer would a project applicant be able to circumvent the considered policies of the state by turning to a federal agency for permission to construct impoundments and diversions on the state's wild and scenic rivers.

As important as this step is, however, it is also important to recognize how limited is its scope. The Durenberger bill will affect only a small fraction of river segments--those formally designated by the states as part of their respective wild and scenic river systems. These rivers now constitute 14,000 miles, less than one-half of one percent of river miles in the lower forty-eight states. These state-designated rivers may not be of national significance. They may not demand federal designation. But they are of great importance to the

fishermen, hunters, hikers, and boaters who live near their banks. The Durenberger bill doesn't say whether these rivers should be dammed and dredged, or fished and floated. It leaves that decision to the states.

All the other rivers--the ninety-nine percent not declared by state governments to be of special significance and made a part of a state managed system--will remain subject to the rule of federal power law. They will continue to be governed by the policy decisions of Congress, and may be tapped for power or irrigation as the nation's interests dictate.

In this way, the Durenberger proposal complements both the Federal Power Act and the National Wild and Scenic Rivers Act which articulate national priorities for river management. The Federal Energy Regulatory Commission will continue to call the shots on the vast majority of non-federal water projects. And the National Wild and Scenic Rivers Act will continue to protect those rivers of national significance. This coordinated program of both state and national control reflects federalism at its best. Conservationists welcome the new partnership.

- End -

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1412 Sixteenth Street, N.W., Washington, D.C. 20036 202—797-6800

March 13, 1984

The Honorable Malcolm Wallop
210 Russell Senate Office Building
United States Senate
Washington, D.C. 20510

RE: Hearings on S. 1756

Dear Senator Wallop:

I very much appreciated the opportunity to testify last week on S. 1756, the State and Local River Conservation Act. Your interest in legislation to assure the states a say in the protection of local rivers from unwanted development is welcomed by all conservationists.

In the course of yesterday's hearing you asked me and other witnesses to respond to two particular concerns: (1) the constitutionality of section 501 of the bill, and (2) the acceptability of substituting a "consultation" requirement for the state "concurrence" required under the proposed legislation. Please accept this letter for the record of the subcommittee's hearing on H.R. 1756.

On the first point, I'd like to put to rest any concern about the constitutionality of the state concurrence provision. The commerce clause of the United States Constitution states, "Congress shall have the power To regulate Commerce with foreign Nations, and among the several States, and with the Indian Tribes." U.S. Const. art. IV, § 3, cl. 2. Courts have long held that this clause implicitly prohibits the states from imposing burdens on commerce without the approval of Congress. E.g., Baldwin v. G.A.F. Seelig, Inc., 294 U.S. 511, 523 (1935); H.P. Hood & Sons, Inc. v. DuMond, 336 U.S. 525, 537-38 (1949); Hughes v. Oklahoma, 441 U.S. 322 (1979).

Congress, however, is itself free to regulate commerce as it sees fit, and, if it so chooses, may authorize the states to take actions which have the effect of burdening interstate commerce. Cooley v. Board of Port Wardens, 53 U.S. 299 (1851); Leisy v. Hardin, 135 U.S. 100, 108, 109-10 (1890); Southern Pacific Co. v. Arizona, 325 U.S. 761, 769 (1945) (dictum); Prudential Insurance Co. V. Benjamin, 328 U.S. 408 (1946); L. Tribe, American Constitutional Law § 6-31 (1978). Thus, the law is well settled that the "burden on interstate commerce"

issue arises only when a state acts to interfere with commerce without congressional approval.[1]

Second, you asked the conservation witnesses to respond in writing to your thoughts on the state concurrence provision. The National Wildlife Federation is strongly committed to the concept of protecting state-designated wild and scenic rivers from federal preemption. The substitution of a watered-down consultation requirement fails to address this central issue.

The fact is that today states can and do consult with federal permitting agencies until they're blue in the face. They've been consulting since the Federal Power Act was enacted over fifty years ago. But consultation didn't do Iowa any good when it tried to enforce its ban on interbasin transfers[2] and it hasn't done other states much good since.[3] The problem is not that the states aren't allowed to sit at the table. Rather it's that they aren't being dealt any cards. Under federal preemption, the Federal Energy Regulatory Commission holds the entire deck. S. 1756 would hand a few cards -- those for the one-half of one percent of rivers in state systems -- back to the states.

The Federation was surprised and disappointed to learn of the administration's opposition to this provision. We would have thought this legislation fit squarely within the new Federalism concept.

Finally, some have attempted to link state control over state wild and scenic rivers, which conservationists endorse, with the administration's call for a state veto over national wild and scenic rivers. This linkage relies on false logic.

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[1]/Congressional action is never struck down as a "burden on commerce." The only commerce clause restraints applicable to Congress are that 1) the federal act must govern activities affecting interstate commerce (not merely local commerce), and 2) the action must not trample state rights reserved under the Tenth Amendment. Neither issue arises here.

[2]/First Iowa Hydro-Electric Cooperative v. FPC, 328 U.S. 152 (1946).

[3]/Town of Springfield v. McLarsen, 549 F. Supp. 1134 (D. Vt. 1982), aff'd in an unpublished opinion (2nd Cir. Feb. 16, 1983), cert. denied, 104 S. Ct. 360 (1983).

The justification for state control over state wild and scenic rivers is rooted in the overriding state interest in these rivers. In contrast, the overriding interest in national rivers -- just as for national parks, monuments, and wildlife refuges -- is of national scope. No reasonable person is always for state control or always against it. The key is to distinguish situations of overriding state interest from those of predominant federal interests, and authorize state control in the former. Such state interest is self-evident in state wild and scenic rivers designated by state governments. But where the Congress speaking for all the people has set aside rivers under the national system, all the states have an interest, and no single state should be permitted veto power.

In sum, we find compelling the arguments for state control of state wild and scenic rivers. And we are confident the states can be trusted to exercise responsible control over those rivers they have singled out for special concern.

Again, we deeply appreciate your willingness to hold hearings on this measure and your interest in exploring the "new" idea of respecting state river laws. We look forward to continuing to work with you.

Sincerely,

Christopher H. Meyer
Counsel
Water Resources Program

Senator WALLOP. I may ask you to do that, in the interest of time, by a written statement, because I believe there is an issue there.

Mr. Morrison.

**STATEMENT OF CHARLES C. MORRISON, CHIEF OF STATE RIVER PROGRAMS, NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION**

Mr. MORRISON. My name is Charles Morrison. My testimony is on the record and we basically support and endorse S. 1756. We do, however, have several proposed amendments which appear on page 3 of our testimony as submitted and I would ask you to consider those carefully.

I want to mention that I have 10 years of experience in charge of the New York State Wild and Scenic River Program within the Department of Environmental Conservation, but I am also representing today the National Association for State River Conservation Programs. This is a group that was formed a couple of years ago and it is basically comprised of the program managers in each of the States that have State river programs.

It was organized in order to foster an exchange of information between the States and to encourage an appropriate Federal/State partnership relationship as envisioned by the National Wild and Scenic Rivers Act. Most States, as has already been noted by a couple of speakers, are operating at a very modest level in their State river programs. I think the basic reason for this is that river conservation has not been established as a national priority other than through the National Wild and Scenic Rivers Act in terms of designation of national rivers.

I think until it is brought down to the level of being a full-fledged partnership between the Federal Government and the States and the local governments and the private sector across the board, which I think S. 1756 does in an admirable fashion, I do not think that we are going to have a really effective nationwide program in a comprehensive way.

I think it is a cost effective bill and I think it will create that kind of partnership. I think in order to have an effective State program that each State must provide in its State program basic protection for designated rivers and there are several different dimensions to that, which I will not go into now. Each State would have to undertake management of the natural and cultural resources that are in a designated river corridor through a management planning effort in a comprehensive fashion. Each State would have to provide guidance and technical assistance for local activity and work with private groups and each State would have to undertake strong educational and public involvement efforts and all of that is difficult and costly.

I would also like to point out that S. 1756 is somewhat similar to the coastal zone legislation in that it deals with a critical land and water interface and the need to protect that interface from both an ecological and economic and also cultural viewpoint.

In each case, the Federal legislation would foster an appropriate partnership, as I have discussed, and make this a national priority and provide assistance.

On the consistency measure, which has been discussed by several speakers, I want to point out that in section 307 of the Coastal Zone Management Act, there is a very strong consistency provision which essentially puts the responsibility on the Federal agencies to determine consistency and works through the NEPA process and the A-95 review process. And that has been worked out over the years and you might look to it as a model for this particular section under 501.

With that, I will conclude my remarks and thank you for the opportunity for being allowed to speak.

[The prepared statement of Mr. Morrison follows:]

36-984 O—84——11

Testimony of Charles C. Morrison, Chief of State River Programs, New York State Department of Environmental Conservation on S. 1756, the State and Local River Conservation Act of 1983, before the Subcommittee on Public Lands and Reserved Water, U. S. Senate, March 6, 1984

Because of their environmental, cultural and economic importance, conservation of rivers and related shoreland resources has, for some time, been a national priority. In 1968 this goal was embodied in the federal Wild and Scenic Rivers Act (P.L. 90-542). Although progress has been made in implementing that law and there is considerable potential for adding rivers to the national system, as indicated by the Nationwide Rivers Inventory, we believe that the future of the National Rivers System and of prospects for accomplishing nationwide river conservation goals generally lies with the states and the local governments. That's why passage of S.1756 is so important.

There, basically, are three reasons underlying our belief. First, relatively few rivers in the Nationwide Rivers Inventory have recreation use pressures which require a substantial management effort. There would be no need for a Park Service presence on most of these rivers.

Second, extensive federal acquisition is not necessary or desirable in most of these river corridors. Although some land acquisition will be necessary, in most instances a mixture of federal, state, local and private management actions will be needed for effective management. The cornerstone technique is land use regulation - and the authority for that lies with the states and their local governments.

Third, except in a few situations where there already are large acreages of federally-owned land in the river corridor, the states, the local governments, landowners and others will not welcome unilateral management by the National Park Service.

To achieve nationwide river conservation objectives and additions to the National River System there must be a strong, cooperative intergovernmental effort. This approach was strongly endorsed in the last Nationwide Plan for Outdoor Recreation.

Congress recognized the need to involve the states fully when the Wild and Scenic Rivers Act was passed in 1968. Section 2(a)(ii) provides for designation of rivers in the system by direction of the Secretary of the Interior upon nomination by a governor

of a qualified river that already has been legislatively protected by the state. The act requires that the state must manage such national rivers directly, with no expense to the federal government.

Nationwide, only a few rivers have been designated under the Section 2(a)(ii) procedure. The principal reason for this is that there has been no federal leadership to encourage this approach. Section 11a of the act requires the Secretary of the Interior to encourage and assist the states to consider needs and opportunities for establishing state and local wild and scenic river programs. However, this section has not been effectively implemented on a nationwide basis. S.1756 would facilitate this.

New York State is one of 26 states that has established a statewide Wild, Scenic and Recreational Rivers Program. Our State Rivers act was passed in 1972. It is a strong regulatory law. It probably is the only one in the nation to contain a provision requiring the administering agencies to cooperate in the conduct of federal Wild and Scenic River studies. We cooperated extensively, for example, in the preparation of the Nationwide Rivers Inventory.

Our State Rivers act also is unique in that it requires the actions of all State agencies to be consistent with its purposes and requirements. This consistency provision is similar in purpose and effect to the one in section 501 of S.1756 with respect to federal actions. We believe that this provision will be a strong incentive for state participation in the program, second in importance only to funding.

New York State has 1,248 miles of designated rivers, making it perhaps the largest state system in the nation. However, this mileage is only a small fraction of total stream mileage in the state and it is only about half of the river mileage that is in the Nationwide Rivers Inventory for New York.

There is considerable local interest in river conservation in New York. However, because of lack of adequate staffing and funding for the program, we have not been able to mount the kind of educational and technical assistance effort that can capitalize on this interest. Preparation of technically and legally sound eligibility studies before designation and of management plans after designation also requires direction and support by our agency, even when there is a lot of participation at the local level. There also

are costs for continuing administration of designated rivers. We don't have the State funding to be able to advance the program significantly.

Most other states are in the same situation, but S.1756 could change all of that. We think that it offers the most cost-effective approach for accomplishing nationwide river conservation objectives.

We believe, however, that the bill requires further refinement. We recommend consideration of the following changes.

1. The bill should focus more specifically on encouraging and assisting legislatively established state wild and scenic river programs. If there is a strong state program, this will provide the impetus for local and private sector activity. Without a good state program, local activity will be random.
2. We believe that $5.0 m. authorization will not meet the need. Grants to the states for developing and administering an approvable program will have to take state salary scales into consideration, with fringe benefits (30% in NYS), indirect costs (35%), and expenses. Pass-through funds for local and private entities add to the total.
3. The 50/50 matching provision is inadequate to attract state participation. We recommend raising the federal share and allowing use of in-kind services for the state match. Also a formula based on USGS data for total stream miles in the state would be more equitable than one based on Nationwide Inventory mileage.
4. A section containing criteria for an approvable program should be added. It seems insufficient to cover this only in section 701 (Definitions). The criteria should be consistent with section 2(a)(ii) of the federal act.
5. The consistency provisions in section 501 should be interlocked with NEPA and A-95 project review procedures. Also, 180 days is too long for a federal agency to wait for a state response.

We appreciate having this opportunity to express our enthusiastic support for passage of this important bill.

Senator WALLOP. Thank you all. We may submit some written question to you for the record.

I will make an observation that while I understand the State's desire to have a greater level of Federal participation some of the deficiencies that were identified in the present abilities of the upper Mississippi folks, for example, may well be lost if the heavy hand of the Federal Government comes in with this additional money.

It does not ever, to my knowledge, simply cast money upon the water without regulations directly tied to it. I mean I understand you want it, but I also wonder in many instances how far we would get and how efficient the programs would remain.

Mr. MORRISON. May I address that, sir? I have seen that with regard to a number of different programs, certainly the coastal zone program, which I have been directly involved in in New York, and I think that it is true that some of these things can be over-bureaucratized, but I think that the way that S. 1756 is drafted that may not happen and I think that if the States are put in a strong enough position to enable them to in effect defend themselves with the Federal bureaucracy as regulations are promulgated that we can be on guard against that.

Senator WALLOP. That brings us around to the problem that we have with the budget deficits. We do not give at this moment in time large sums of money or increased money without maintaining some control over it. I would point to that as one of the potential problems.

We still have two bills to be heard this morning. I thank you all for your testimony.

Next is a panel on S. 416. Tim Lillebo, Oregon Natural Resources Council, Prairie City, OR.; Chris Brown; David Conrad; Ron Eber, Sierra Club, Portland; Terri Norrel, Committee for Idaho's High Desert.

## STATEMENT OF TIM LILLEBO, NORTHEAST FIELD COORDINATOR, OREGON NATURAL RESOURCES COUNCIL

Mr. LILLEBO. Good Morning. My name is Tim Lillebo. I am the northeast field coordinator from the Oregon Natural Resources Council, a 98-member group and more than 2,000 individual members. We thank you and I was hoping Senator Hatfield would be here, because I wanted to thank him for his introduction of the bill.

I am here today to offer my organization's full support for inclusion of the Illinois River in Oregon and the Owyhee River in Oregon and Idaho as components of the national wild and scenic rivers system. We believe such designation will add a lot to protecting the river environments and the many values that are there.

Specifically with regard to the Owyhee River, we urge Congress to adopt the recommendation of the National Park Service in their study. At issue here is the disposition of the private lands along the Owyhee River and parts of the study supports designation of the Rome Valley in the State's scenic waterways system, to my understanding of it. We support this and we believe that the State program would be the best method to ensure the needs of the local

landowners, the private landowners there and the public at large are met.

If Oregon does not choose or the State does not choose to follow the National Park Service recommendation, we urge that that 14-mile stretch in the Rome Valley and the other private lands of the Owyhee be designated as recreational or wild, whatever the suitable classification is, to help protect the value of the river.

Hopefully, Mr. Hatfield was here earlier, but he is gone. I wanted to say we have floated down the Owyhee Canyon every year now for several years and it is awfully nice to be kind of spinning along with 2,000-foot solid rock walls above you, falcons, eagles, and other birds soaring over head and I was going to offer Mr. Hatfield a trip down the Owyhee, since he has been the one supporting this river for an awfully long time, but, Mr. Wallop, if you are interested we can always take a trip with you. Anyway the offer stands for Mr. Hatfield too.

The other river which is in Oregon, and in Mr. Hatfield's bill, is the Illinois. ONRC recommends that we adopt the Forest Service recommendation. This designation will finally once and for all put to rest the threat of a major dam at Buzzard's Roost.

I would also like to comment in no way do we want to degrade the national wild and scenic rivers system but we would like to stress to this committee that many of the multiple use resources along these rivers are dependent upon lands outside of the average one-half mile wide corridor and such is the case in many areas in Oregon.

I would like to say that the Bureau of Land Management has recognized this fact and recently they have recommended that most adjacent lands along the Owyhee Rivers and many of the tributaries of the Owyhee, both in Oregon and Idaho, have been recommended for wilderness designation.

The value of adjacent lands outside the one-half mile strip is especially significant along the Illinois River. The outstanding salmon and steelhead fishery is dependent not only upon the main stem of the corridor but also the tributary streams. We are concerned about three specific streams, Indigo, Silver, and Lawson Creeks drainage. For more than a decade, Oregon conservationists and sportsmen have supported the wilderness designation for these drainages.

Another method, of course, is the wild and scenic rivers system. We would like to see these three major tributaries be considered as part of the National Wild and Scenic Rivers Act and possibly be considered for this bill. They are very important for steelhead runs, both for spawning and rearing, and recreational value as well.

In regards to the Durenberger bill, I think quite a bit has already been said, we are in support of that bill. In addition to the provisions which provide for funding of State and local river conservation planning, we think it would be very useful in parts of Oregon, and we are especially pleased to see the provision for a State veto of Federal permitting or——

Senator WALLOP. Mr. Lillebo, if you could summarize your statement. There are still a number of people left to testify.

Mr. LILLEBO. I would like also to thank Senator Hatfield and possibly yourself for your perseverance in this issue and especially in

your past efforts to continue protection for these rivers until the Wild and Scenic Rivers Act can be established. We hope you will report favorably.

Thank you.

[The prepared statement of Mr. Lillebo follows:]

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Testimony of

TIM LILLEBO
Northeast Field Coordinator

before the

Subcommittee on Public Lands and Reserved Waters
Energy and Natural Resources Committee
US Senate

on

Designation of the Illinois and Owyhee Rivers
as components of the Federal Wild and Scenic Rivers System
(S. 416)

and

the proposed State and Local Rivers Conservation Act
(S. 1756)

March 6, 1984
Washington, DC

My name is Tim Lillebo and I am the Northeast Field Coordinator for the Oregon Natural Resources Council, a association of over 90 sportsmen, conservation, recreation, commercial and educational organizations and more than 2000 individual members. I wish to thank Chairman Wallop, Senator Hatfield and other members of this subcommittee for the opportunity to testify.

I am here today to offer my organization's full support for inclusion of the Illinois and Owyhee Rivers in Oregon as components of the federal Wild and Scenic Rivers System. Such designation will

have a variety of economic, biological and social benefits for the rivers themselves and the American people.

Specifically in regard to the Owyhee, we urge the Congress to adopt the recommendation of the National Park Service in their study. At issue here is the disposition of the private lands along the Owyhee. ONRC supports the Park Service recommendation that the State of Oregon designate the Rome Valley (China Gulch to Crooked Creek) as part of its Scenic Waterways System and then seek federal designation under provisions of the Wild and Scenic Rivers Act. I might point out that Oregon has designated the two stretches of the Owyhee as State Scenic Waterways (from the Idaho Border to Three Forks, and Crooked Creek to Birch Creek). These segments are included in total in the federal proposal, which would also include two undesignated segments (Three Forks to China Gulch and Birch Creek to the tailwater of Owyhee Reservoir).

The Oregon Scenic Waterways System has a variety of classifications for river management, including one which is appropriate for the Rome Valley. We believe the state program would be the best method to ensure that the needs of local landowners and the public-at-large are met.

If the State of Oregon does not wish to follow the NPS recommendation, ONRC urges that the approximately 10 miles of the Rome Valley be designated "recreational" under the federal act. This classification is the least restrictive of the federal categories, but will serve a needed function. Even though the current landowners may not have any plans or even desires to change the character of the river corridor, landowners, economic circumstances and other situations do change. Federal designation

of this stream segment will ensure that the appropriate control is available to be exercised if necessary.

ONRC would also urge caution by the Committee toward proposals to exclude private lands on and directly next to the proposed Wild and Scenic River. We believe this could be a unwise management precedent. As I stated before, times change. Even the most sincere assurances by the landowner that he or she doesn't intend to alter the character of the lands in question are not enough to protect the public's interest in the river.

If the landowner doesn't intend to change the land use, then there should be no objection to Wild and Scenic River designation, since the purpose of such classification is to maintain the current river environment. In the event that the landowner does intend to change the character of his or her lands, those lands must be within the protection boundary to allow federal action (such as the acquisition of a scenic easement) to ensure the continued integrity of the land.

In regard to the Illinois River, ONRC recommends that Congress adopt the Forest Service recommendation. The vast majority of the proposal has already been classified as a State Scenic Waterway. Designation will, once and for all, put the threat of a major dam at Buzzard's Roost behind us.

While in no way degrading the value of the federal Wild and Scenic Rivers System in protecting the nation's outstanding free-flowing streams, ONRC would like to stress to this Committee that the various multiple use qualities for which a river segment is known, loved and preserved, are dependent upon more than the average

one-quarter mile strip of land on each side, which is what Congressional designation will protect.

The Bureau of Land Management has recognized this reality for the Owyhee River. They recently recommended that most adjacent lands along the river and many tributaries be designated as part of the proposed Owyhee Canyonlands Wilderness.

The value of adjacent lands outside the one-half mile wide strip is especially significant along the Illinois River. The outstanding salmon and steelhead fishery is dependent not only upon the main stem, but on many critical tributary streams as well. Wildlife, which are often a major attractant resource and seen by human river users, utilize more than the corridor itself as habitat.

ONRC is especially concerned about Forest Service management plans in the Indigo, Silver and Lawson Creeks drainages. For more than a decade, Oregon conservationists, sportsmen and commercial fishermen have urged Congressional Wilderness designation for these drainages. Another method to help protect the natural values of these Illinois River tributary watersheds is to designate these tributaries as components of the Wild and Scenic Rivers System.

These three tributaries provide major contributions to the salmon and steelhead runs, in terms of both flows and spawning and rearing habitat. In fact, Silver Creek provides 30% of the total flows of the Illinois River during low-water periods. The cold, clear water from these tributaries is crucial to maintaining a high-quality aquatic environment, and is vital to fish production during these times. Much of the upstream natural fish rearing areas of the Illinois have been lost due to roadbuilding, mining and

logging, and this tragic fact increases the importance of these lower tributaries.

In regard to S. 1756, the Durenberger bill, ONRC offers its full support as well. In addition to the provisions which provide for funding of state and local river conservation planning, acquisition and administrative programs, we are especially pleased to see the provision for a state "veto" of federal permitting or licensing of activities which would harm the character of a state-protected river segment. This is long overdue and we applaud its inclusion.

The passage of such a provision will have the additional benefit of revitalizing citizen interest in state designation of free-flowing streams, an effort which has stagnated since the hydroelectric dam rush began. The recent deluge of hydroelectric dam applications to the Federal Energy Regulatory Commission on literally hundreds of Oregon streams has demonstrated that, despite the best intentions and actions of state government, FERC may permit such a destructive project over the objections of that state.

ONRC urges the Committee to ensure that this provision applies not only to privately-initiated projects such as hydroelectric proposals, but also to federally-initiated projects as well. Let me give you an example. The Oregon Legislature recently designated the North Fork of the Middle Fork of the Willamette River and Waldo Lake as State Scenic Waterways. Waldo Lake is the source of the North Fork and is the purest large body of water in the world. Its water quality is greater than most people can imagine; for example, it far exceeds that of laboratory-grade distilled water.

All of the lands in these Scenic Waterways are managed by the US Forest Service. While that agency's management is minimally adequate at this time, the Administration's plan to significantly increase the timber cut on the National Forest System provides a serious threat to the integrity of these State Scenic Waterways. If the agency has to cut what Assistant Secretary of Agriculture John Crowell is proposing, the Forest Service will likely have to cut to the very shores of Waldo Lake. In the least they would have to severely road and log the watershed which produces the cold, clear water in these Scenic Waterways.

I personally wish to thank Senator Hatfield for co-sponsoring the Durenberger bill, and for being the primary sponsor of the bill to designate the Illinois and the Owyhee Rivers. ONRC appreciates Senator Hatfield's perseverance and leadership on this issue, and especially his past efforts to secure continued interim protection for these streams. I hope the Committee reports favorably on these bills so our finest free-flowing streams may be protected for this and future generations.

Thank you for your time. I would be happy to answer any questions you might have.

ADDENDUM:

The Oregon Natural Resources Council would also like to go on record as supporting other Oregon rivers for consideration as Wild and Scenic Rivers. The rivers are: Grande Ronde-Wallowa, Klamath, North Fork Smith, John Day-North Fork John Day, North Umpqua, Mckenzie.

Senator WALLOP. I would say that I have a statement from Senator Hatfield, which will be inserted at the beginning of the hearing on this bill.

Mr. BROWN. I will defer to the people that have come all of the way from Oregon. We thank Senator Hatfield for trying to see both the Owyhee and the Illinois protected.

We would concur with what Mr. Lillebo and the others will be speaking on. I have already submitted a statement.

## STATEMENT OF DAVID R. CONRAD, WASHINGTON REPRESENTATIVE, FRIENDS OF THE EARTH, ON S. 416

Mr. CONRAD. I will not make a long statement. We support this bill. The Illinois River nearly was enacted about 2 years ago and we hope that these two rivers will be added to the system and I will just submit the rest of my statement for the record.

I also have a statement from our Friends of the Earth northwest office from David Ortman on the Owyhee River and I would like to include that for the record as well.

Senator WALLOP. We appreciate that.

[The prepared statement of Mr. Ortman follows:]

FRIENDS OF THE EARTH

COMMENTS OF THE N.W. OFFICE
FRIENDS OF THE EARTH

My name is David E. Ortman, Conservation Representative for the N.W. office, Friends of the Earth, 4512 University Way N.E., Seattle, WA 98105. Friends of the Earth is a national organization with approximately 3,000 members in Washington, Oregon, and Idaho. In general, we are supportive of the proposed Senate bills: S.416, S.1084, S.1756, and S. 2095.

I would like to address, however, a free-flowing river segment not considered in the legislation before the Subcommittee. The week of 4 July 1976 I spent far removed from parades, fireworks and other man-made celebrations. Instead, I, along with several others, backpacked into S.W. Idaho to view a natural celebration of a river yet untamed by man - the Owyhee.

The Idaho mainstem of the Owyhee has been studied for Wild & Scenic status. We found, in our exploration of this scuptured land form that the narrow tributories such as Deep Creek and Battle Creek possesses equally spectacular scenic and wildlife values.

Setting up camp near a cool deep pool of water on the canyon bottom after a day with the temperature hovering around $100^{o}$, provided a refreshing contrast for the body and mind.

We are delighted that Senator Hatfield has introduced S.416 which would, among other things, designate the Oregon portion of the Owyhee River. The Owyhee does not stop at the border, however. A river system is not bounded by political subdivisions. The values which make up the Oregon Owyhee are carried through in Idaho as well. We would strongly urge that the Owyhee River system be designated for Wild & Scenic River Status by Congress.

Thank you for the opportunity to submit these comments.

## STATEMENT OF RONALD EBER, WILDERNESS COORDINATOR, OREGON CHAPTER, THE SIERRA CLUB

Mr. EBER. I will just summarize my statement as opposed to reading it. My name is Ronald Eber. I am from Salem, OR, and I am the wilderness coordinator for the Oregon chapter of the Sierra Club. It is a pleasure to be here and support Senator Hatfield's bill, S. 416, which will put segments of the Illinois and Owyhee Rivers into the National Wild and Scenic River System.

The major points are that both the conservation community, the Oregon Legislature and the appropriate State advisory boards in Oregon are in full support of this bill. Both the standard environmental organizations, like the Oregon Environmental Council, and the Sierra Club, and canoeing and rafting associations support this bill.

You also have attached to our statement a joint memorial that was approved by the Oregon Legislature that parallels Senator Hatfield's bill and is in full support of putting these bills into the national system. These rivers have had the appropriate Federal studies and we believe it is time to put them into the system.

I have personally rafted down the Owyhee from Rome. It is a magnificent experience. The high canyon walls and the scenery are spectacular. I have met no one who has not spoken in the most outstanding terms of the Illinois River as it goes through the country.

I would make two additional points. One, although the Oregon Legislature in its memorial did not include the Idaho section of the Owyhee in its bill, because they felt that was beyond their jurisdiction, the Sierra Club does fully support inclusion and protection of that Idaho segment of the Owyhee River at some time in the national system. It is part of the interval of the entire river system.

Finally, we wanted to emphasize that inclusion of the Owyhee in this bill, in the national system, should in no way be considered a substitute for the present BLM wilderness review and evaluation that is now occurring that looks not only at the canyon lands around the river but at adjacent lands. That planning process should continue and this designation or possible designation should not substitute for that process.

So, again, I am pleased to be here and to bring to your attention the Oregon Legislature and the Oregon environmental community and others that have enjoyed these rivers are in full support of this legislation.

[The prepared statement of Mr. Eber follows:]

# SIERRA CLUB ... Oregon Chapter

March 6,1984

STATEMENT OF RONALD EBER, WILDERNESS COORDINATOR OF THE OREGON CHAPTER OF THE SIERRA CLUB BEFORE THE SUBCOMMITTEE ON PUBLIC LANDS AND RESERVED WATER, UNITED STATES SENATE, CONCERNING S. 416, A BILL TO INCLUDE CERTAIN SEGMENTS OF THE OWYHEE AND ILLINOIS RIVERS IN THE NATIONAL WILD AND SCENIC RIVERS SYSTEM.

I am Ronald Eber from Salem Oregon, Wilderness Coordinator of the Oregon Chapter of the Sierra Club. It is an honor to testify here today and a pleasure to support Senator Hatfield's bill, S.416, to include the Illinois and Owyhee rivers in the National Wild and Scenic Rivers System.

The Sierra Club, Oregon Environmental Council, Northwest Rafters Association, Oregon Kayak and Canoe Club, Lower Columbia Canoe Club, Federation of Fly Fishers and the Oregon Shores Conservation Coalition together worked for the passage of a House Joint Memorial during the 1983 session of the Oregon Legislature which parallels S.416. (This Memorial is attached). The Oregon legislative Memorial was also endorsed by the State Waterways Advisory Committee and the State Marine Board.

The segment of the Illinois River proposed for inclusion in the National Wild and Scenic Rivers System was recommended in a Department of Agriculture study and the Owyhee segments, outside the 14 mile segment around Rome, was recommneded by a Department of Interior study.

The Illinois River to be added to the Federal system supports a world-class fishery for chinook and coho salmon, stealhead and cutthroat trout and provides excellent white water recreation. Almost all of the river has been designated as a State Scenic Waterway as part of Oregon's Scenic Waterway System.

The Owyhee is a high desert river entrenched within steep narrow canyons. It is run by kayakers and rafters during spring run-off and during the rest of the year provides an outstanding fishery for rainbow trout. The wildlife in the area includes pronghorn antelope, bighorn sheep, mule deer, otter, beaver, bobcat and many other species. Oregon has already included all but 30 miles of the Oregon portion of the Owyhee within its Scenic Waterway System.

Dual state-federal protection of these rivers provides Oregon with a co-operative role in the management of the rivers and assures protection from FERC licensing for hydroelectric projects.

... To explore, enjoy and preserve the nation's forests, waters, wildlife, and wilderness ...

36-984 O—84——12

While the Idaho portion of the Owyhee was not included in Oregon's legislative Memorial, the Sierra Club recommends that the Committee include the equally spectacular Idaho segment along with the Oregon sections within the federal rivers system. This Idaho segment was also studied by the Department of the Interior.

Finally the Sierra Club wants to especially emphasize that inclusion of the Owyhee within the National Wild and Scenic Rivers System should in no way be considered a substitute for the BLM's current wilderness review and evaluation of the river's canyonlands and other adjacent areas. This designation should not interfere with the BLM planning process.

Thank you for the opportunity to present to you the combined support of the Oregon Legislature, the Oregon environmental community and recreationists from many parts of the United States for Senator Hatfield's S. 416.

62nd OREGON LEGISLATIVE ASSEMBLY--1983 Regular Session

## A-Engrossed

# House Joint Memorial 2

Ordered by the Senate March 23
Including House Amendments dated February 14 and Senate Amendments dated March 23

Ordered printed by the Speaker pursuant to House Rule 12.00A (5). Presession filed (at the request of House Interim Committee on Transportation for Northwest Rafters Association)

**SUMMARY**

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure.

Memorializes Senate and House of Representatives of United States and Secretary of Interior to include certain [*segment*] **segments** of the Owyhee [*River*] **and Illinois River** in the National Wild and Scenic Rivers System.

**JOINT MEMORIAL**

To the Senate and House of Representatives of the United States of America, in Congress assembled and to the Honorable Secretary of the Interior of the United States of America:

We, your memorialists, the Sixty-second Legislative Assembly of the State of Oregon, in legislative session assembled, respectfully represent as follows:

Whereas the Owyhee River, a high desert river, is entrenched in steep narrow canyons; and

Whereas it can be run by kayakers and rafters during spring runoff; and

Whereas during the rest of the year it provides fishing for rainbow trout; and

Whereas wildlife in the area of the river include pronghorn antelope, bighorn sheep, mule deer, otter, beaver, bobcat and many other species; and

Whereas the March 1979 final report of the Owyhee Wild and Scenic River Study by the Department of the Interior recommended that the entire 192-mile study segment be added to the National Wild and Scenic Rivers System; and

Whereas the Illinois River is designated as a state scenic waterway; and

Whereas the river supports a world-class fishery for chinook and coho salmon, steelhead and cutthroat trout; and

Whereas the river also provides excellent whitewater recreation; and

Whereas a study by the Department of Agriculture, completed in 1978, recommended that 50.4 miles of the river be included in the National Wild and Scenic Rivers System; now, therefore,

**Be It Resolved by the Legislative Assembly of the State of Oregon:**

(1) The Congress of the United States is memorialized to support Senate Bill 416 introduced to the 98th Congress by Senator Mark O. Hatfield and to thereby include in the National Wild and Scenic Rivers System established under the Wild and Scenic Rivers Act of 1968 (P.L. 90-542, 16 U.S.C. 1271):

(a) The segment of the Illinois River recommended in the Department of Agriculture study; and

NOTE: Matter in **bold face** in an amended section is new; matter [*italic and bracketed*] is existing law to be omitted.

Senator WALLOP. Thank you very much.
Ms. Norrel.

**STATEMENT OF TERRI NORREL, ON BEHALF OF THE IDAHO CONSERVATION LEAGUE, THE SIERRA CLUB, AND THE COMMITTEE FOR IDAHO'S HIGH DESERT**

Ms. NORREL. Mr. Chairman, I would like to thank you for allowing me this opportunity to testify today on behalf of the wild and scenic river classification for the Owyhee River. My name is Terri Norrel. I appear here representing the Idaho Conservation League, the Sierra Club and the Committee for Idaho's High Desert.

As a 30-year native of the State of Idaho, I have strong feelings for seeing these rivers preserved. The Owyhee River is without a doubt worthy of such a classification. The rugged beauty of this powerful and yet forgiving river winds throughout miles of undisturbed high desert, physically unaffected by State boundaries.

The river is a unique ecological unit and should be seen as such. The Owyhee River is in and of itself outstanding and we support its inclusion in the Wild and Scenic Rivers System. It is an irreplaceable resource that deserves to be considered on its own merits and we urge that it not be used as a tool for release of others not in the wilderness study area.

Thank you again for your time in considering the Owyhee River in the wild and scenic rivers classification.

Senator WALLOP. Thank you, Ms. Norrel.

Let me just reiterate what we said earlier with regard to other rivers in Colorado that were being mentioned. To the extent that you are able to assist us with some sort of landowner agreement in the 14-mile stretch that was indicated as private land is the extent to which we can help. I would say again, I do not know where the financial resources are going to come from to acquire land acreage of the size that was mentioned.

You may be able to get a significant segment of land by owner cooperation and that would be helpful. I would appreciate it.

I appreciate your coming here. I may well take you up on that raft trip. I might also tell you that my son spends his summers as a boatman on the Snake River. It sort of runs in the family.

Thank you very much.

The last panel is again Chris Brown; David Brown; Ross Heald, chairman, Board of Selectmen, Jackson, NH; and Roger French, past chairman, Jackson Conservation Commission. Come right up.

Mr. Heald.

**STATEMENT OF ROSS HEALD, CHAIRMAN, BOARD OF SELECTMEN, JACKSON, NH**

Mr. HEALD. Mr. Chairman, good afternoon, and members of the committee. My name is Ross Heald and I am chairman of the Board of Selectmen for the town of Jackson, NH. On behalf of the 600 residents of Jackson and the many thousands of people who visit our resort community each year, I would like to thank you for this opportunity to testify on S. 2095, legislation introduced by Senators Humphrey and Rudman, that would help us protect the Wildcat River.

I understand my full written statement is available to you, so I shall simply go over the highlights. I want to thank Senator Humphrey again for testifying in person on our behalf. I am accompanied by Roger French, a member of the Jackson Conservation Commission, who will describe in greater detail the tremendous attributes of the Wildcat River.

The economic base of Jackson is almost entirely dependent upon the tourist trade. Practically all of the businesses in Jackson are directly related to the tourist trade, hotels, restaurants, sports shops. We all recognize that the key to our past, current, and future success and livelihood is the very scenic splendor which attracts people to Jackson. Any threat to the beauty of our surroundings is a direct threat to our economic future.

So we feel protecting the Wildcat River, our most treasured natural resource, has become of paramount concern. Mr. Chairman, we are convinced that study of the Wildcat River for possible inclusion in the national wild and scenic rivers is the best first step for providing this long-term protection.

The townspeople of Jackson are virtually unanimous in their support for such protection. We have also conducted a survey of 70 riparian owners, many of whom are not full-time residents. Of the 33 who responded, which is nearly 50 percent, all but one favored such a study as a means of protecting the river's many attributes.

Let me make very clear, however, that we are not looking for Federal money for major land acquisitions. Indeed, 70 percent of Jackson's land area already lies in the White Mountain National Forest and we have no desire to see that percentage grow.

Thank you very much.

[The prepared statement of Mr. Heald follows.]

STATEMENT OF ROSS HEALD,
CHAIRMAN, BOARD OF SELECTMEN, JACKSON, NEW HAMPSHIRE
ON S. 2095, TO DESIGNATE THE WILDCAT RIVER FOR STUDY
AS A NATIONAL WILD AND SCENIC RIVER
BEFORE THE SUBCOMMITTEE ON PUBLIC LANDS AND RESERVED WATER,
SENATE COMMITTEE ON ENERGY AND NATURAL RESOURCES
TUESDAY, MARCH 6, 1984

MR. CHAIRMAN, MEMBERS OF THE COMMITTEE, MY NAME IS ROSS HEALD, AND I AM CHAIRMAN OF THE BOARD OF SELECTMEN FOR THE TOWN OF JACKSON, NEW HAMPSHIRE. ON BEHALF OF THE 600 RESIDENTS OF JACKSON AND THE MANY THOUSANDS OF PEOPLE WHO VISIT OUR RESORT COMMUNITY EACH YEAR, I WOULD LIKE TO THANK YOU FOR THIS OPPORTUNITY TO TESTIFY ON S. 2095, LEGISLATION INTRODUCED BY SENATORS HUMPHREY AND RUDMAN, THAT WOULD HELP US PROTECT THE WILDCAT RIVER.

ALTHOUGH PERHAPS SMALL IN POPULATION, THE TOWN OF JACKSON HAS A NATIONAL, IF NOT INTERNATIONAL, REPUTATION AS A RESORT VILLAGE. LOCATED IN THE HEART OF THE WHITE MOUNTAIN NATIONAL FOREST, JACKSON OFFERS SPECTACULAR SCENERY AND NEARLY LIMITLESS RECREATIONAL OPPORTUNITIES. RUNNING RIGHT THROUGH THE CENTER OF JACKSON IS PERHAPS THE GREATEST GEM OF ALL -- THE WILDCAT RIVER. IF WE WERE NOT BLESSED WITH THIS RIVER, JACKSON WOULD BE A VERY DIFFERENT TOWN. IT IS NOT AN EXAGGERATION TO SAY THAT THE WILDCAT RIVER IS THE TOWN'S MOST ENJOYED TOURIST ATTRACTION.

THE RIVER IS NOTED FOR ITS TROUT FISHING, BUT PERHAPS BETTER LOVED BY LOCALS AND TOURISTS ALIKE AS AN ESPECIALLY SCENIC STRETCH OF WATER, REPLETE WITH FALLS, THAT MAKES FOR EXCEPTIONAL NATURAL BEAUTY AND RECREATION.

MR. CHAIRMAN, I AM ACCOMPANIED HERE TODAY BY MR. ROGER FRENCH, A MEMBER OF THE JACKSON CONSERVATION COMMISSION, WHO WILL DESCRIBE IN GREATER DETAIL THE TREMENDOUS ATTRIBUTES OF THE WILDCAT RIVER THAT WE BELIEVE MAKE IT DESERVING OF STUDY AS A NATIONAL WILD AND SCENIC RIVER. IN THE TIME REMAINING TO ME, HOWEVER, I WOULD LIKE TO STRESS THE IMPORTANCE OF THE RIVER TO OUR LOCAL ECONOMY AND EMPHASIZE OUR NEED FOR HELP IN PERMANENTLY PROTECTING THE RIVER AND WISELY MANAGING IT.

THE ECONOMIC BASE OF JACKSON IS ALMOST ENTIRELY DEPENDENT UPON THE TOURIST TRADE. IN WINTER WE ATTRACT CROSS COUNTRY AND ALPINE SKIERS. IN SPRING, SUMMER AND FALL WE DRAW FISHERMEN, HIKERS, GOLFERS, AND SIGHTSEERS. AND OF COURSE, THE FALL FOLIAGE IS AN EVER-POPULAR ANNUAL ATTRACTION. PRACTICALLY ALL OF THE BUSINESSES IN JACKSON ARE DIRECTLY RELATED TO THE TOURIST TRADE -- HOTELS, RESTAURANTS, SPORT SHOPS. WE ALL RECOGNIZE THAT THE KEY TO OUR PAST, CURRENT AND FUTURE SUCCESS AND LIVELIHOOD IS THE VERY SCENIC SPLENDOR THAT ATTRACTS PEOPLE TO JACKSON. ANY THREAT TO THE BEAUTY OF OUR SURROUNDINGS IS A DIRECT THREAT TO OUR FUTURE.

IN RECENT YEARS, SOME SECTIONS OF THE RIVER HAVE BECOME SO OVERRUN DURING THE SUMMER MONTHS THAT AVAILABLE PARKING HAS NOT BEEN ADEQUATE, ROADS HAVE BECOME JAMMED AND DANGEROUS, AND THE NONAVAILABILITY OF PUBLIC FACILITIES HAS ONLY EXACERBATED THE

SITUATION. IN TODAY'S GOVERNMENTAL JARGON, YOU MIGHT SAY THAT WE HAVE A MANAGEMENT PROBLEM. AND LIKE MANY RESORT COMMUNITIES, NEW HOUSES ARE POPPING UP, AND BUILT IN THE WRONG PLACES THESE CAN HAVE A DETRIMENTAL IMPACT ON SCENIC BEAUTY AND THE OVERALL ATTRACTIVENESS OF THE RIVER AND THE TOWN. IN ADDITION, WE SIMPLY WANT TO ASSURE THAT THE RIVER IS KEPT IN A FULLY NATURAL AND FREE-FLOWING CONDITION.

HENCE, PROTECTING THE WILDCAT RIVER, OUR MOST TREASURED NATURAL RESOURCE, HAS BECOME A PARAMOUNT CONCERN. MR. CHAIRMAN, WE ARE CONVINCED THAT STUDY OF THE WILDCAT RIVER FOR POSSIBLE INCLUSION IN THE NATIONAL WILD AND SCENIC RIVER SYSTEM IS THE BEST FIRST STEP FOR PROVIDING THIS LONG-TERM PROTECTION. THE TOWNSPEOPLE ARE VIRTUALLY UNANIMOUS IN THEIR SUPPORT FOR SUCH PROTECTION. WE HAVE ALSO SURVEYED THE SEVENTY RIPARIAN OWNERS, MANY OF WHOM ARE NOT FULL-TIME RESIDENTS, AND OF THE THIRTY-THREE (NEARLY FIFTY PERCENT) THAT RESPONDED, ALL BUT ONE FAVORED SUCH A STUDY AS A MEANS OF PROTECTING THE RIVER'S MANY ATTRIBUTES.

LET ME MAKE VERY CLEAR, HOWEVER, THAT WE ARE NOT LOOKING FOR FEDERAL MONEY FOR MAJOR LAND ACQUISITIONS. INDEED, SEVENTY PERCENT OF JACKSON'S LAND AREA ALREADY LIES IN THE WHITE MOUNTAIN NATIONAL FOREST, AND WE HAVE NO DESIRE TO SEE THAT PERCENTAGE GROW. BUT WE WOULD LIKE TO LOOK SERIOUSLY AT OTHER OPTIONS FOR PROTECTING THE SCENIC AND RECREATIONAL QUALITIES OF THIS RIVER. WE WOULD LIKE TO EXPLORE WAYS IN WHICH THE FEDERAL GOVERNMENT MIGHT HELP US AND THE STATE GOVERNMENT MEET THE CHALLENGE OF MANAGING SUCH A POPULAR RIVER. AND ABOVE ALL, WE WANT TO PROTECT THE RIVER FROM THE KINDS OF DAMAGE THAT WILL LEAVE IT FOREVER

SPOILED.

WE'RE VERY PROUD OF THE WILDCAT, AND KNOW VERY WELL WHY IT WAS INCLUDED ON THE NATIONWIDE RIVERS INVENTORY. TRUE, THE WILDCAT IS NOT ONE OF THE NATION'S GREAT AND MIGHTY RIVERS, BUT IT IS AN OUTSTANDING EXAMPLE OF A TYPE OF COMPACT YET WONDERFULLY VARIED RIVER THAT IS INCREASINGLY FALLING PREY TO DEVELOPMENT IN MANY PARTS OF THE COUNTRY. THUS, IT SEEMS TO US THAT WE HAVE HERE AN OPPORTUNITY TO PRESERVE A PRISTINE NEW ENGLAND RIVER IN A PRISTINE NEW ENGLAND TOWN, AND THAT THIS IS AN OPPORTUNITY WE SHOULD NOT PASS UP.

IN CONCLUSION, MR. CHAIRMAN, IF THE WILDCAT RIVER AND ITS BANKS ARE ALLOWED TO BE DEGRADED, WE BELIEVE A NATIONAL TREASURE WILL BE LOST. I AM REMINDED OF A STATEMENT MADE BY DANIEL WEBSTER, ONE OF NEW ENGLAND'S NATIVE SONS AND A LONG-TIME U.S. SENATOR FOR OUR NEIGHBORING STATE OF MASSACHUSETTS. IN HIS CLOSING ARGUMENTS IN THE DARTMOUTH COLLEGE CASE BEFORE THE U.S. SUPREME COURT, WEBSTER STATED, "IT IS, AS I HAVE SAID, SIR, A SMALL COLLEGE, AND YET THERE ARE THOSE OF US WHO LOVE IT."

THE WILDCAT RIVER IS A SMALL RIVER, AND YET THERE ARE MANY OF US WHO LOVE IT. IF YOU HAVE NEVER BEEN TO JACKSON BEFORE, AND SPENT TIME ON THE WILDCAT, WE HOPE THAT YOU WILL SOMEDAY. IT WOULD BE A PLEASURE TO HAVE YOU AS OUR GUEST, FOR ONLY THEN WILL YOU BE ABLE TO TRULY APPRECIATE WHY IT IS THAT WE SEEK YOUR SUPPORT FOR OUR EFFORTS TO PRESERVE THE WILDCAT RIVER.

THANK YOU.

Senator WALLOP. Thank you, Mr. Heald.
Mr. French.

## STATEMENT OF ROGER F. FRENCH, PAST CHAIRMAN, JACKSON, NH, CONSERVATION COMMISSION

Mr. FRENCH. Mr. Chairman, I want to thank you for this opportunity to appear before you. My first comment is that the Wildcat is very much of national importance. When we think of mountains and the recreation experiences, remember that the White Mountain National Forest is within 1 day's drive of 25 percent of the U.S. population. I think you will find most of the people, even right here when they speak of big mountains, they are going to speak of the White Mountains.

We who have the privilege of living within this community and more particularly in Jackson just so thank everybody for the opportunity to live in this delightful, beautiful, unique place. It is a responsibility of ours to see to it that this is kept for future generations. We do not have the right to take this beautiful property, this land and not have it available to our children and future generations.

Now, we are already in Jackson doing a major activity, a volunteer activity, in connection with the White Mountain National Forest, doing trail maintenance or a lot of protected areas and doing this at no cost to the Federal Government. We do it out of our hearts. We have been doing this long before the recent emphasis on volunteerism. We lead the way in this sort of stuff. It is our life. We are honored to be able to do this.

It is for that honor that we want to see this treasure preserved for prosperity. It is that honor that we have going to the local one where we have this outstanding historic, wildlife, scenic and recreation value. Now, unfortunately New Hampshire does not have a river program and therefore, for this outstandingly remarkable area, this very compact river, this experience that we are trying to do that is all summarized in this very short space which is accessible by car, by wheel chair, by ski turn, by bicycle, by hiking, and experienced so broadly by all of us we feel that the Federal designation is vital.

Thank you.

[The prepared statement of Mr. French follows:]

# Jackson Conservation Commission

P. O. Box 84
Jackson, New Hampshire 03846

The Wildcat River (Brook) Scenic River Candidate

Senate Bill S 2095: Hearing March 6, 1984 10:00AM
Dirksen Building SD 366

Testimony by Roger F. French, *Past Chairman
Jackson, N.H. Conservation Commission

The White Mountains are the mountains of Northeastern United States. They are within a normal one day auto trip for 25 percent of the U.S. population.

Jackson, N.H. has been a leading destination for over 125 years. (see attached brochure)

Historically scenes have been portrayed by many renowned artists, including those of the White Mountain School.

Jackson was featured by NBC news a few years ago as one of the six most attractive places to live in the United States.

70 percent of the land area of Jackson is within the White Mountain National Forest.

The Wildcat River (Brook) threads through Jackson and is outstandingly remarkable for the many varied and historic scenic vistas.

There are three important headwaters for the Wildcat. The main stem starts near Carter Notch (3300 feet, between Carter Dome , 4843 feet and Wildcat Mountain, 4397 feet) forming two mountain lakes. It then goes underground past an Appalachian Mountain Club Hut through the huge rock falls and caves known as the ramparts. It emerges as a beautiful mountain stream and cascades about 1000 feet down in the next mile. The next three miles along the Wildcat River Trail offer many tranquil viewing and meditation sites. As it approaches Prospect Farm, a 500 acre historic site bequeathed to the Town of Jackson and administered by the Jackson Conservation Commission as a park for residents and visitors, it is joined by Bog Brook. Bog Brook, a tranquil stream, starts near Perkins Notch, 2586 feet, between Carter Dome and Black Mountain, and descends about 400 feet in two miles.

Wildcat Brook starts just east of the gondola terminal of the Wildcat Ski Area, a major alpine ski area within the White Mountain National Forest. The famous Wildcat Valley Trail of the Jackson Ski Touring Foundation starts at the Wildcat gondola terminal, descends east of the ridge through Prospect Farm and then stays near the Wildcat Brook all the way to Jackson Village descending over 3,000 feet for the seventh largest vertical drop of any ski area in the world. Wildcat Brook descends 1500 feet in three miles and joins the main stem near Prospect Farm. The headwaters described above are entirely within the White Mountain National Forest with extensive wildlife including moose, deer, black bear and some varieties of the cat family.

The Wildcat cascades steeply and then levels out to open plains and meadows. For the next four miles, great vistas and rural settings including several operating farms in this verdant valley are surrounded by Wildcat E, Halls Ledge, Spruce and Eagle Mountains with Mount Washington in the background. Carter Dome, Black, Tin and Thorn Mountains are in the foreground on the east with the Baldfaces and Doublehead Mountains in the background. These pastoral vistas with great mountains framing them have been depicted by many leading artists of the White Mountain School as well as contemporary artists. After coursing through the Eagle Mountain House golf course, the spectacular Jackson Falls begin first with the large pools depicted in the enclosed brochure. This is the scenic centerpiece of the Town. It then plunges 120 feet to the spectacular views dominating Jackson Village.

Finally the runout in the rocky, gravelly section passes west of Town Hall, Elementary School, and Memorial Park(skating, hockey, baseball and other field games). On the western bank are the recently restored Wentworth Resort, Library, Community Church and the Wentworth golf course. It then turns at the point of the first settlement of the area by Benjamin Copp and reaches the confluence with the Ellis River which quickly passes under the famous and historic Jackson Covered Bridge.

We note in its short distance, this outstandingly remarkable river runs the full gamut of river experiences and vistas. It is accessible by car, bicycle, walking, cross country skiers, and snowshoes for year 'round enjoyment. The historic, scenic, recreational, geological and wildlife features are compactly and uniquely provided by the free-flowing Wildcat.

An early White Mountain Guide Book published in the 1840's urged walking to view the Wildcat River and Falls while the stagecoach stopped in Jackson to change horses.

These visual and recreational values must be protected for the future of our rural and scenic heritage. Generations have inherited this special part of our earth; our obligation is to protect it so that future generations may have the quality experience of this unique mountain stream.

We urge the approval of the study of the Wildcat sponsored by Senate Bill S 2095.

Similar legislation is in process in House Bill 4406 introduced by Congressman Norman D'Amours on November 16, 1983.

Virtually all Jackson residents and riparian owners on the Wildcat support protection of this great asset. The Board of Selectmen, the Planning Board, the Conservation Commission, the Jackson Resort Association, the Jackson Ski Touring Foundation, the Jackson school children (Jackson Falls can be viewed from the school yard), and the Appalachian Mountain Club all support protection of the Wildcat River.

The Wildcat in a short distance provides nearly the full range of mountain river experiences and is accessible by car, walking, cycling, skiing, snow shoeing and wheel chairs. The active hikers, swimmers, waders, picnickers, young, middle aged, elderly, handicapped, residents and visitors all share this great resource at all seasons.

The Wildcat has the outstandingly remarkable historic, scenic, recreational wildlife qualities to make it a prime candidate for the study for inclusion in the Wild and Scenic Rivers inventory.

* Mr French is a member and past Chairman of the Jackson Conservation Commission, past Chairman of the Executive Council of the North Country Resource Conservation and Development Project, Chaiman of the Energy Committee of the North Country Board of the Appalachian Mountain Club. He is President of Suntime Inc. which pioneered and manufactures a very simple, efficient, phase change Solar hot water system.

Senator WALLOP. Thank you, Mr. French.
Chris.

**STATEMENT OF CHRISTOPHER N. BROWN, CONSERVATION DIRECTOR, AMERICAN RIVERS CONSERVATION COUNCIL, ON S. 2095**

Mr. BROWN. Senator, this is the fourth time I have spoken on a bill this morning. Had we know so many of our friends were going to show up today, I do not think David and I would have chosen to be on every single bill, but we wanted to be sure each of them was covered. I will be very brief.

I want to thank Senator Humphrey for making the effort so promptly to help the citizens of Jackson to see their river protected. One thing I wanted to comment on, I was frankly stunned by the Forest Service's comment this morning on this bill, when they said they would not support wild and scenic designation.

From everything we know about the kinds of rivers that ought to be studied, this is one of those rivers. Of late the Forest Service has not been studying very many rivers for the wild and scenic system, but this is clearly one that deserves to be looked at, particularly even if it will not ever be a situation where there is Federal management and protection of the river, there are tremendous opportunities, as we have talked about earlier, to get state and to get local groups involved in it.

I would really love to see the Forest Service or some other Federal agency, perhaps the National Park Service taking a lead in trying to look at those opportunities, and try to look at those alternatives. It is something that the citizens of Jackson can do and the State can do, but I think that the Federal agency can play the role as catalyst on that.

I hope the committee as they markup and get this bill out of committee will take a look at how the language might support that kind of effort by the Forest Service or the Park Service to study this river for wild and scenic, but simultaneously be looking at State and local alternatives for protection.

Finally, I would say that the State of New Hampshire, I think, is seriously looking at some ways to protect their finest and best rivers right now. Unfortunately, their timing is a little bit off. Their State legislature does not reconvene for almost another year and by the time they got a bill through, that would probably be another year and a half or so away. So I think it is very timely right now to be taking a look at this river as a wild and scenic study river.

Thank you, Mr. Chairman.

Senator WALLOP. I think in all fairness, that was the thrust of the administration's testimony. It was not that they did not find a value, they wondered where the responsibility was.

Mr. BROWN. My point is I would like to see them playing the role of the catalyst.

Senator WALLOP. It was my impression that was the thrust of what they were saying. They would be happy to play any role in its coordination.

Mr. Conrad.

## STATEMENT OF DAVID R. CONRAD, WASHINGTON REPRESENTATIVE, FRIENDS OF THE EARTH, ON S. 2095

Mr. CONRAD. Thank you, Mr. Chairman. My testimony also picks up on that same theme. I believe it would be appropriate for the committee in reporting this bill, and we hope that they will, to include report language suggesting the role for the federal agency that would be assisting in doing the study and trying to make sure that the study looks at a broad range of alternatives. That is what a good wild and scenic river study does.

I have been concerned that recent studies, particularly the Interior Department studies in other parts of the country, have really not been very aggressive in looking at city and local participation in the river conservation project in a good way. And there are fine planners in the Department of the Interior and the Department of Agriculture who can help communities and that is what I would hope would happen in this case.

We would like to also finish by thanking Senator Humphrey for his work in trying to protect this river.

Senator WALLOP. Senator Humphrey, did you have a question or something you wish to say?

Let me just toss a generic question to both of you, Mr. French and Mr. Heald. Does the State or the community, either of them at present have the power through zoning or other maintenance to protect this river?

Mr. HEALD. The answer is negative. We do have zoning within the town of Jackson, but that zoning precludes this development when Federal preemption takes over.

Senator WALLOP. You are talking power?

Mr. HEALD. Power, yes.

Senator WALLOP. I mean otherwise. From the standpoint of the State, in the normal developments of the State, whether they are real estate developments or what have you.

Mr. HEALD. We do have the zoning and we do have a very active group in the community which sees to it that these objectives are met.

Senator WALLOP. Are there any power permits?

Mr. HEALD. Yes, there is a preliminary permit on one, on Jackson Falls.

Senator WALLOP. Where is that? In town?

Mr. HEALD. Right in the center of town and this would be a very marginal project in terms of output and I think the developer has overemphasized its potential power. It is certainly a marginal project and it would be a vast destruction of beauty and would impact far greater on the community of Jackson.

Senator WALLOP. Well, I thank you all very much for your trip down here and your testimony and the pictures you have provided for viewing. We appreciate it very much.

I will again say that on all of those bills heard this morning, the record will remain open for three weeks and if there is expanded testimony or additional testimony, of which any of you are aware, to be submitted, the committee will welcome that.

Thank you again. With that the hearing is adjourned.

[Whereupon, at 1:10 p.m., the hearing was adjourned.]

# APPENDIX

## Additional Material Submitted for the Record

# THE WILDERNESS SOCIETY

FOUNDED IN 1935

TESTIMONY OF RONALD J. TIPTON, DIRECTOR, WILD AND SCENIC RIVERS AND TRAILS PROGRAMS, THE WILDERNESS SOCIETY, SUBMITTED TO THE SENATE SUBCOMMITTEE ON PUBLIC LANDS AND RESERVED WATER RIGHTS, SENATE ENERGY AND NATURAL RESOURCES COMMITTEE, CONCERNING S.1084, S.1756, S.2095, AND S.416.

The Wilderness Society would like to submit this statement for the hearing record on S.1084, S.2095, S.416, and S.1756. We are pleased the Subcommittee held the hearing on all of these bills, and we await and expect mark-up in the near future.

As several witnesses at the March 6 hearing told the Subcommittee, the nation's Wild and Scenic River System is in a state of inertia. No new Wild and Scenic Rivers has been added to the system by Congress since the passage of the Alaska Lands Act in 1980, and not a single "lower 48" Wild and Scenic River has been Congressionally designated since 1978. It is appalling to our organization that only 0.2% of the river mileage in the lower 48 states are protected by Wild and Scenic classification. Surely this does not represent any sort of reasonable balance between resource protection and development.

The two major pieces of river legislation before the Subcommittee--S.1084 and S.1756--have the potential to achieve two important objectives: (1) additions to the federal Wild and Scenic River System; and (2) much needed financial assistance and other incentives to states to enhance state river protection programs. Our organization believes it is critical for the Congress

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to pass legislation to accomplish both of these objectives. The federal system must be expanded at the same time state river programs are given a boost in order to maximize this nation's river protection opportunities.

Let me specifically address Senator McClure's bill (S.1084). We generally concur with the testimony of the American Rivers Conservation Council (ARCC) and the National Audubon Society on this legislation. With certain essential amendments, we would support S.1084 because it offers some improvements in the basic Wild and Scenic Rivers Act. Changes in the current language of S.1084 are definitely needed, however, to achieve the latter objective.

We support the designations in S.1084 for the Clark's Fork, Los Pinos, Conejos and the Verde. We believe increases are needed in the mileage to be protected for the Snake, AuSable, Piedra and Elk Rivers. For each of these rivers we believe the U.S. Forest Service's recommendations should be adopted for wild and scenic designation. The Forest Service study process included careful assessment of these rivers, a thorough examination of alternatives, and a great deal of input from the public. Their recommendations for designation should be adopted by the Committee in this legislation.

We also agree with ARCC that the following rivers should be added to S.1084 as additions to the National System. These rivers have either had studies completed or the studies are nearly finished. They include the following:

Encampment (CO)
Cache La Poudre (CO)
North Fork, Kein (CA)
Manistee (MI)
Situk (AK)
Sheenjek (AK)
Bruneau (ID)

We also urge the Subcommittee to move quickly to designate 83 miles of the Tuolumne River in California as a wild and scenic river. This outstanding

stretch of river has been recommended for inclusion in the system, and is supported by both California Senators and the majority of the state's House delegation.

We also recommend the following changes in S.1084 language amending the Wild and Scenic Rivers Act.

Section 304

We are opposed to the proposal in this section to limit land acquisition funding to $500,000 until a comprehensive management plan is completed for a wild and scenic river. It is appropriate, as Section 303 does, to require a comprehensive plan within three years for new rivers. However, it cannot be predicted what emergency land acquisition will be needed during that time period. Wording such as "such sums as may be necessary" should be substituted for the $500,000 limitation in order to guarantee prevention of the kind of development the Wild and Scenic Rivers Act was designed to guard against.

Section 305

We join the National Audubon Society in opposition to the granting of veto power over state-supported additions to the system under 2(a)(ii) of the act. If a federal agency such as the Forest Service has a significant amount of land within the corridor of a state-recommended wild and scenic river, its concerns should be expressed to the Department of Interior. However, Interior should make the final decision on a recommendation from the states.

Section 307

We agree with the National Audobon Society and others that this section is inappropriate and should be stricken. The solution to the Congress' failure to act expeditiously on the eighteen rivers that have reached the end of their study period with positive recommendations is for Congress to act positively.

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rather than treat the Wild and Scenic River System as a political football. If Congress does not believe it can expedite consideration and positive action on worthy additions to the system, it should provide for automatic designation of a river at the end of its study period unless Congress acts otherwise. We strongly oppose Section 307, and recommend its deletion.

Title IV

Title IV represents a pernicious attempt by the Administration to weaken the Wild and Scenic Rivers Act. Designation of a Wild and Scenic River, whether by Congress or by the Interior Secretary upon recommendation of a state, should be reversible only by an Act of Congress. State action under section 2(a)(ii) should be limited to recommending new designations to the Secretary. This is necessary for the Wild and Scenic River System to remair a truly a national preservation system, as Congress clearly intended. We strongly recommend this section by deleted.

S.1756

We commend Senator Durenberger and the other co-sponsors of S.1756. This is a carefully crafted piece of legislation which would provide a real boost to the efforts of state and local organizations, both public and private, to increase their river preservation activities. Strong tools are provided in S.1756 to expand the existing network of state protected rivers at a minimal cost to the taxpayer.

We urge the Committee to retain the grants to states program set forth inSection 301. A $5,000,000 maximum commitment for establishment and administration of state and local river programs or for conservation of lands in the corridor of Federal, State or local river programs, assessments or inventories

is a small sum indeed compared to the need to fund these activities. This grant program is essential and is consistent with any definition of "new federalism."

We are in strong agreement with the language and the objectives embodied in section 501. This section provides that, for rivers or river segments contained in state-protected river programs, any federal license or permit or exemption from a license or permit to conduct activities within or adjacent to the river corridor can be reviewed by the affected state. If the state fails to act within 180 days, its concurrence is automatic. At present only about 14,000 miles of rivers, or roughly 0.4% of all the river mileage in the lower 48 states, would be subject to this review.

We also support Section 401, which is designed to encourage volunteers and volunteer organizations to help "conserve, maintain and manage" rivers through use of the Volunteers in the Parks and Volunteers in the Forest Acts as well as other incentives. This section is similar in spirit to the 1983 amendments to the National Trails System Act, which was endorsed by this Committee.

We also favor Section 601, which is designed to encourage donations of land along rivers for conservation purposes. The Wilderness Society shares Chairman Wallop's enthusiasm for tax incentives that promote land conservation, and dommend his efforts in this regard. We agree with ARCC that the title of this section, Tax Incentives," should be changed to "Clarification of Existing Tax Legislation."

S.416

The Wilderness Society is pleased to join with conservationists,,both locally and nationally, in support of Senator Hatfield's bill (S.416) to designate portions of the Owyhee and Illinois Rivers as part of the Wild and

Scenic Rivers system. However, we do not feel that Wild and Scenic designation alone can adequately protect the outstanding natural and cultural resources of the Owyhee Canyonlands Region or the Illinois River watershed. We have several suggestions which would considerably enhance protection of both of these magnificent river systems.

The Illinois and Owyhee are complex river ecosystems that require careful protection in order to preserve them for the use and enjoyment of many generations to come. While federal Wild and Scenic designation would provide some protection for portions of the river corridors, it is equally important to extend protection of the river system well beyond the one-half mile corridor of land that would be included in the Wild and Scenic River System.

The Owyhee River is part of the vast Owyhee Canyonlands ecosystem which spans three states--Oregon, Idaho and Nevada. The Canyonlands, including both the river canyons and the surrounding plateaus, contain outstanding wilderness, wildlife, recreational and cultural values. The California bighorn sheep, once extirpated from the region, was reintroduced in the 1960's, and now thrives in the area. Many historic homesteads and prehistoric sites are located in the canyons and on the plateaus, and opportunities for wilderness recreation throughout are outstanding. In order to truly protect all of the resource values of the Owyhee, including the Wild and Scenic segment, it is essential to protect the area as an integrated unit composed of both canyons and surrounding plateaus.

The Bureau of Land Management recently studied the Owyhee Canyonlands for possible wilderness designation and concluded in its draft EIS that 374,160 acres are suitable for wilderness. Conservationists have proposed a 1.2 million acre wilderness for the region. But Wild and Scenic designation would

protect only 61,400 acres--even if the section in Idaho recommended by the Park Service was added to S.416. The Wilderness Society therefore recommends that Wilderness designation for the Owyhee Canyonlands be considered prior to or concurrent with Wild and Scenic designation, to ensure that the Owyhee is protected as an integrated management unit.

The Illinois River system also needs protection for lands in addition to the one-half mile corridor that would be included along the main stem of the Illinois under S.416. The outstanding salmon and steelhead fisheries of the Illinois are dependent upon the protection of key tributory stream in addition to the main stem. The Lawson, Indigo and Silver Creek drainages are particularly critical, and we therefore recommend that they also be considered for Wild and Scenic designation.

S.2095

Finally, we want to indicate our support for Senator Humphrey's bill, S.2095, to designate Wildcat Creek be studied for potential inclusion in the Wild and Scenic River system. The Nationwide Rivers Inventory assessment identified Wildcat Creek as a worthwhile candidate for the National System. It is a beautiful stream, and enjoys trememdous local and statewide support for its protection. We recommend enactment of S.2095.

Testimony on S416 and S1084

by

Dick Linford, President
Western River Guides Association

Background

The Western River Guides Association, representing the river touring industry in eleven western states, is encouraged to find that Congress is again giving serious consideration to including rivers in the Federal Wild and Scenic Rivers System.

The Wild and Scenic Rivers Act, passed into law sixteen years ago, was an official recognition of the fact that our free-flowing rivers are a finite and threatened resource. In the early years of the Act, Congress moved with deliberation, designating many of our most beautiful rivers Wild and Scenic. At this time, 61 stretches of river, totalling around 7,000 miles, enjoy protection under the Act.

But Congress seems to have lost interest in rivers over the last few years. In fact, it has been six years since any river outside Alaska has been designated Wild and Scenic. This inaction certainly can not be attributed to the lack of any more worthwhile rivers. There are at least 18 stretches of river that the Forest Service and Park Service have deemed worthy of Wild and Scenic status, and which Congress has not moved on.

The cause for inaction is not simple lack of interest. It is rather that there are competing interests for use of the rivers. And river development, whether it be for irrigation, hydroelectric power, or any other of the myriad uses of rivers,

often seems more attractive and beneficial than simply leaving the river alone.

It is important to realize, however, that rivers left wild have considerable value. As our society becomes increasingly urban, people are turning more and more to wilderness for respite from their constricted and constricting environments, and rivers provide some of the most accessible, most immediately rewarding wilderness. And as our wild rivers disappear, those left are increasingly valuable. People are on waiting lists several years long for access to some of our rivers.

Wild rivers also contribute significantly to local economics. People who come to float, fish, camp, hike, swim and otherwise enjoy rivers, bring considerable money. They hire guides and outfitters, buy gasoline, food and beverages, rent hotel and motel rooms, and eat in restaurants. And they are non-consumptive users. They bring money and take only fond memories.

Comments on S416

The Western River Guides Association is in complete agreement with this bill. The Illinois and Owyhee are both very worthy rivers, long deserving of Wild and Scenic designations.

Comments on S1084

We support inclusion of all eight rivers in this bill. We do feel, however, that the stretch of the Piedro River in Colorado should be increased from the bill's recommended 28.4 miles to a total of 50 miles.

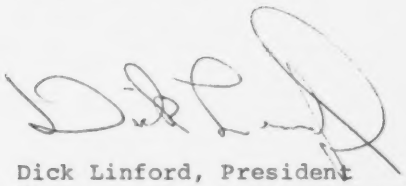
We are concerned about two sections of S1084, the intent of which are to amend the original Wild and Scenic Rivers Act. Our first concern is with Section 305, which states that any government agency with five percent or more of the land along the river must concur with the recommendation for Wild and Scenic designation. We think that this restriction is unwieldy and could lead to unnecessary obstruction of rivers worthy of protection. We feel that the Forest Service should be the only agency for which this stipulation should apply. Too many other agencies have primary functions and interests which cause them to oppose Wild and Scenic protection of rivers.

We strongly oppose Section 401, which would allow state legislatures to remove rivers designated Wild and Scenic under Section 2(a)(ii). Such a condition seriously undermines the strength of Federal Wild and Scenic protection, and challenges the notion that the rivers in question are to be considered national treasures rather than basically state or local property.

In conclusion, Western River Guides Association would like to reaffirm our support of the Federal Wild and Scenic Rivers System. Furthermore, we hope that this Subcommittee will give serious consideration to our positions on S416 and S1084.

Western River Guides Association thanks Senator Wallop and the other members of this committee for the opportunity to submit this testimony.

Respectfully,



Dick Linford, President
Western River Guides Association

League of Women Voters of Yellowstone
74 Road 2EC
Cody, Wyoming 82414

The Honorable Malcolm Wallop
United States Senate
Washington, D. C. 20510

Dear Senator Wallop:

Enclosed is a statement from Yellowstone League concerning wild river designation on the Clarks Fork River.

Please have the statement included in the testimony from the March 6 public hearing held by the Senate public lands subcommittee.

Thank you.

Sincerely,

Dee Oudin, vice-president

League of Women Voters of Yellowstone

Senator Wallop and members of the Senate public lands subcommittee:

In 1979, League of Women Voters of Yellowstone adopted a position supporting wild designation for the Clarks Fork River.

At that time, we stated in the Shoshone National Forest Environmental Impact Statement that options for water storage below the proposed wild river segment should be maintained. The final U. S. Forest Service recommendation for 21.5 miles of classified stream, which is one mile shorter than the original proposal, accommodates future impoundment of water on the river below Clarks Fork Canyon.

Members of Yellowstone League have voted annually to continue support of the Forest Service recommendation.

We reached our Clarks Fork consensus following League guidelines. Our efforts included on-site study and discussions with representatives of both pro and con viewpoints. Ultimately, we concluded that Wild River is the highest and best use for this very unique segment of the Clarks Fork between Crandall and the lower end of the canyon.

Thank you for this opportunity to have our statement included in the record of the March 6 subcommittee hearing.

Dee Oudin, vice-president
74 Road 2EC
Cody, Wyoming 82414

STATEMENT OF BART KOEHLER

REPRESENTATIVE

WYOMING CHAPTER

Sierra Club

My name is Bart Koehler. I currently reside in Cheyenne, Wyoming. Over the last thirteen years I have been deeply involved in the protection and preservation of public land and water resources in Wyoming. I am currently working as support staff for the Wyoming Chapter of the Sierra Club. My statement today is presented on the Chapter's behalf.

SNAKE RIVER

I would like to reaffirm the Sierra Club's earlier stance concerning the protection of the Snake River in Wyoming. We continue to support maximum designation for this river. The U.S. Forest Service determined that the entire length of the study river was eligible for designation. Such a designation would ensure the protection of the "outstandingly remarkable scenic recreational and wildlife values" of the river, yet assure the continuation of certain activities such as irrigation diversions and levee maintenance.

With regard to this particular bill - we do support it as far as it goes. However we are greatly disappointed that additional river miles were not included for protection. We feel that in addition to protecting the Snake River Canyon, the measure should focus on maintaining the vanishing pastoral character of the upper stretches of river by way of scenic easements and cooperative planning measures. It is important to note that this segment of river contains bald eagle nesting areas, and winter roosting areas, plus riparian habitat that is critical for moose, elk, and other wildlife species.

In addition, I would like to submit a letter from six river float trip operators from Jackson Hole who firmly support the effort to protect the "Grand Canyon of the Snake".

CLARKS FORK

I would like to reinforce our support for a "wild" river designation for the Clarks Fork River with permanent mineral withdrawal for the river corridor.

In the context of this legislation, we concur with the Forest Service's proposal for river protection. Few, if any, stretches of river within the United States are as wild or as deserving of protection as the Clarks Fork.

Over the years, much has been said about potential water development projects within the Clarks Fork Canyon. I should point out that the projects within the heart of the canyon have been effectively abandoned because they were not economically feasible, and possessed unacceptable environmental ramifications. It is important to note that the Wyoming Water Development Commission has stated the following:

"....there are but limited needs for development of Clarks Fork waters for the Wyoming portion of the basin."

".... there are no in-basin municipal or industrial demands."

In regard to the Clarks Fork Reservoir site, below the Canyon:

"This reservoir could provide more irrigation, municipal, and industrial water than any other individual site. This site is also below the recommended Wild and Scenic segment." (from Wyoming Water Development Commission Reports).

Currently the Commission is aiming its energies toward the development of the lower Clarks Fork site. Furthermore, the Commission has adopted an "either/or" resolution which requested either a delay on designation of the river, or that the boundary line of the downriver segment be moved upstream one mile to allow for possible water development. (from July 1983 minutes of Commission).

The Wyoming Chapter of the Sierra Club adheres to the contention of the U.S. Forest Service that the lower part of the study area has been pulled back by one mile, and that any viable water development conflict has been resolved. (See pages E-8, E-9 Final EIS, Clarks Fork).

You may decide to adjust the boundary slightly, or place appropriate language in the Committee report. However we agree with the U.S. Forest Service, and firmly believe that no dams, reservoirs, tunnels, or diversion structures should be allowed in the Clarks Fork Canyon.

Although we strongly support addition of these rivers to the National Wild and Scenic Rivers System, our support of S. 1084 is contingent upon elimination of Sections 401 and 402 of the bill which would adversly amend the National Wild and Scenic Act.

Thank you, Bart Koehler

STATEMENT OF THE NATIONAL ASSOCIATION OF COUNTIES ON S. 1756, SUBMITTED FOR THE RECORD TO THE PUBLIC LANDS AND RESERVED WATER SUBCOMMITTEE OF THE SENATE COMMITTEE ON ENERGY AND NATURAL RESOURCES, MARCH 6, 1984

In June of 1982, NACo testified on local initiatives for natural resource management before the Subcommittee on Intergovernmental Relations of the Senate Committee on Governmental Affairs. The impelling force for this hearing and for NACo's testimony was the ground-breaking work by eight counties in Minnesota that jointly protected 400 miles of the Upper Mississippi River. The efforts of the eight counties to protect the river through their joint powers board, the Mississippi Headwaters Board, constitute nothing less than a revolution in the field of natural resource management.

By the time of the hearing in June of 1982, the Mississippi Headwaters Board already was providing convincing evidence that local governments could effectively protect extensive natural resource systems. At the time of its creation the eight county management program for the Upper Mississippi placed under protection more mileage of a single river than had ever been accomplished through federal or state action. That distinction still holds two years later. The joint county management of the Upper Mississippi River continues to be

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* The National Association of Counties is the only national organization representing county government in the United States. Through its membership urban, suburban and rural counties join together to build effective, responsive county government. The goals of the organization are to:

- improve county governments;
- serve as the national spokesman for county government;
- act as a liaison between the nation's counties and other levels of government;
- achieve public understanding of the role of counties in the federal system.

successful. It is a signpost to all levels of government, but particularly to the federal government, about the future direction for efficient and effective management of natural resources. First, the Upper Mississippi experience has shown that adoption of ordinances at the local level is much cheaper than federal acquisition of land or interest in land as a basic approach in natural resource protection. It also is distinctly advantageous from the perspective of human impacts -- it means that individual landowners do not lose their lands through condemnation. Furthermore, it removes the threat of a "big brother" from a distant location regulating a local resource. Finally, it shows that wild and scenic river protection or other natural resource protection does not necessarily have to result in removal of lands from local tax rolls.

NACo believes that long-range river management plans should be generated at the local level, with local citizen input. We feel that Senator Durenberger's bill, S. 1756, will lead to further success stories like the Mississippi Headwaters Board, and enthusiastically encourage this Subcommittee to act affirmatively on it.

Federal designation of rivers and creeks as "wild and scenic" often results in significant financial impact in the area in which the designation occurs. Frequently, lands are removed from county tax rolls. NACo believes that enactment of S. 1756 would be one of the most prudent investments ever made by the federal government in natural resources protection. Rather than eliminating lands from local tax rolls and engendering local hostility, this bill would encourage other local governments to follow the example of the eight counties in Minnesota. It would be a prudent investment because of the greater cost effectiveness of local police power protection versus protection through acquisition. Consequently, each dollar spent by local governments under this bill is likely

to result in proportionately more river mileage entered into protected status than through the dollars spent for federal protection.

County governments have much to offer as agents of river protection. Counties generally have land use authorities in unincorporated areas where are located most of the river and stream segments identified in the national Inventory of Natural and Free-flowing Rivers. County officials have been elected to represent and express the economic, social and environmental concerns of local citizens directly affected by natural resource management decisions. County government today is an exciting place for creative ferment in the management of natural resources. Many of the approaches being tried by counties in various aspects of natural resources management may be transferred to resource management situations outside of the field that they were originally developed for. New techniques being applied in farmland preservation may have applications in river management. And the Upper Mississippi approach may have applications in other fields.

Some of the most significant innovations in land management by counties have come in the area of agricultural land preservation. Montgomery County, Maryland helped pioneer the concept of a development rights bank to support a market in transferrable rights. In certain situations counties have worked directly with developers or industry to allow private and public purposes to be carried out at the same time.

Counties also are working with private resource preservation groups. DeKalb County, Illinois was able to purchase needed land at a reasonable price with the help of the Nature Conservancy. The Conservancy agreed to purchase a property and hold it for up to three years, allowing the county to raise funds. Through this arrangement the county was able to establish a park which was formerly a 45 acre Boy Scout camp, complete with 8 existing facilities and river access.

All of these kinds of innovations would be facilitated by S. 1756. County government has much to offer as a vehicle for the protection of natural resources. Therefore, we respectfully request the Subcommittee to affirmatively refer S. 1756 to the full Committee on Energy and Natural Resources.

NACo thanks the Subcomittee for the opportunity to submit this statement for the record.

36-984 O—84——14

ARIZONA WILDERNESS COALITION
2515 E. Thomas Road, Suite 16-673, Phx.
Arizona 85016

Testimony of Joni Bosh before the Senate Subcommittee on Public Lands and Reserved Water on S. 416, a bill to include, among others, a segment of the the Verde River in the National Wild and Scenic River System.

My name is Joni Bosh; I'm from Phoenix, Arizona. Currently I'm a member and coordinator fro the Arizona Wilderness Coalition. Thank you for this opportunity to speak today on behalf of the Coalition for the inclusion of the Verde River in this bill.

We are very happy to see the Verde included in this legislation. Many of us have worked for years to have it and several other deserving river segments in Arizona added to the national Wild and Scenic system. Over a year ago, we proposed that three, the Salt, the Verde and the San Francisco, be designated as part of a Forest Service wilderness package. Naturally, we are delighted to see it finally receive the attention it deserves.

The Verde is one of only two perennial rivers in Arizona's desert region. The riparian community it supports is a substantial portion of waht little natural riparian habitat we have left in Arizona. Of the relatively small amount of riparian acres there was before the land was settled, only 14% remains undammed, untouched and unspoiled. It is important to protect it as it is; over 60% of all the wildlife found on the Forest Service land the river crosses depend on the Verde during all or part of their life cycle. Twenty-one threatened or endangered species are found along the Verde; two of the thirteen known active Bald Eagle nesting territories in the Southwest rely on the Verde. The river also provides valuable winter waterfowl habitat and is used heavily during January and February by migratory birds.

The segment of the Verde under consideration is largely remote and wild. In the entire length between Beasley Flat and Sheep's Bridge there is only one private ingolding. The rest of the river flows unimpeded through splendid gorges and wide reaching, rocky, steep hills. Along twenty-four miles it is bordered by or wholly within two proposed wilderness ateas, Arnold Mesa and the Mazatzal additions. Just six primitive dirt roads reach the upper end of the segment, two at the lower and none penitrate the middle river. Even though the river running season is short, it's exceptional solitude and beauty make it extremely popular with with river runners. Because there are so few roads the river experience is truly remarkable; one can be truly isolated from the everyday sound of cars.

The proposed corridor with its aboundant hardwoods, shrubs and dependable water supply attracted ancient Indian settlers; the corridor is littered with Indian ruins, many not yet vandalized and disturbed only by an occasional grazing cow.

Our only disappointment is that not more of the river is included in this bill. The segment from Table Mesa downstream 10.5 miles to the Tangle Creek/Sheep's Bridge area is as fine as any part of the river farther upstream, yet was not authorized for study. At that time several possible dam sites were under consideration that might have backed water into that segment. Since then the Central Arizona Water Control Study has been completed and no sites were chosen. In fact, all the sites were determined to be unsuitable for dam construction. Therefore, the reason for dropping this segment from study is no longer valid. This segment, too, deserves and should be, protected.

Since there is not one wild and scenic river in Arizona, we are delighted to see action on the Verde and hope that we will also see the Salt and San Francisco Rivers protected in the near future, too.

Thank you.

STATE OF UTAH
OFFICE OF THE GOVERNOR
SALT LAKE CITY
84114

SCOTT M. MATHESON
GOVERNOR

March 9, 1984

Senator Malcolm Wallop
S.D. 308
U. S. Senate
Washington D. C. 20510

Dear Senator Wallop:

The state of Utah supports the passage of Senate Bill 1756, the State and Local River Conservation Act of 1983. We understand that this bill has been heard by the Public Lands and Reserved Water subcommittee and therefore submit the following comments for inclusion in the record.

We endorse the concept of this bill and welcome the encouragement to set up a state river conservation program. Despite the fact that almost all of our rivers have been inventoried, few have subsequently been studied for classification as scenic, wild, or recreational. The exceptions include portions of the Green, Yampa, Dolores, and Colorado rivers. Senate Bill 1756 would provide an opportunity to complete the assessment study in order to determine proper status.

The National Wild and Scenic Rivers Act provides for the designation of wild, scenic and recreational rivers resulting in appropriate land use constraints. We feel that the amendment, with proper implementation and management by the states, would provide for an improved understanding of our state river resources and thus more effective management.

Our concerns with a river conservation program stem from the philosophy that necessarily surrounds western water interests. As you are aware, western states face great challenges when managing waters that are different in nature from those that eastern states must resolve. Often, for our state, the question is one of availability that freqently results in conflicting demands on use. Consequently, proper implementation of the State and Local River Conservation Act, if passed, is important to our state. As suggested in the proposed Act, the state would administer the program thus retaining the latitude to manage its resources as deemed appropriate.

Specific areas of concern would include needs for travel corridors and resource development while protecting fisheries, recreational demands, and aquatic habitat management programs. This obviously requires a balance between development and conservation that the state is both sensitive to and equipped to handle.

In summary, a state administered river conservation program, that encompasses all aspects of resource management and is compatible with the many needs and values of our state, would be welcomed by Utah. Therefore, I urge the passage of this bill. Following passage, Utah will look forward to participating in the development of guidelines to implement the State and Local River Conservation Act of 1983. Thank you for the opportunity to comment.

Sincerely,

Governor

SMM:jh

cc: Senator Jake Garn

**The Izaak Walton League of America**
INCORPORATED
DEFENDERS OF SOIL, WOODS, WATERS AND WILDLIFE

OFFICERS: SEPTEMBER 1983 – SEPTEMBER 1984

PRESIDENT: ETHYLE R. BLOCH, 6340 DONNA ROAD, FORT WAYNE, IN 46819, PHONE 219-747-4490

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BEDFORD, IN
47421

FIRST VICE-PRESIDENT
GEORGE W. SCHMITT
1935 S. BUCKEYE
KOKOMO, IN
46901

**Indiana Division**

March 1, 1984

1984 MAR - 2 PM 12 28

The Hon. Malcolm Wallop
Subcommittee on Public Lands
United States Se nate
Washington, D. C. 20510

Dear Senator Wallop:

It is our understanding that S. 1756, the State and Local Rivers Conservation Act of 1983, is soon to be heard by your Subcommittee; and I am writing on behalf of the Indiana Izaak Walton League to support the objectives of this legislation, and to urge its approval.

Many states have over the years since the mid-1960s enacted state laws aimed at preserving their best remaining natural streams. Indiana is among them, and it has a fine statute. However, it must be acknowledged that progress in Indiana has been somewhat halting and incomplete. Only three rivers have actually been designated under the Indiana Natural, Scenic and Recreational Rivers Act. A number of others have been studied, but the momentum has not been sufficient to preserve some of the best remaining streams in the state. I suspect many other states, especially in the East and Midwest, have similar experiences.

S. 1756 appears to be a superb public policy for encouraging state and local governments to renew their interest and action in programs of this kind. It provides incentives, grants for demonstration projects, some funding for purchase of easements, and other desirable features. The legislation appears to mesh well with the national Wild and Scenic Rivers Act, and seems tacitly to acknowledge that the Federal law is approaching its limits, and that state and local actions need to pick up where the national policy leaves off.

We are very pleased that Senator Lugar is a co-sponsor of Senator Durenberger's bill, and we commend it for your support and passage.

Thank you.

Sincerely,

Thomas E. Dustin
Environmental Affairs Advisor
Indiana Division, Izaak Walton League of America, Inc.
1802 Chapman Road
Huntertown, Indiana 46748

c: The Hon. Richard Lugar
The Hon. Dan Quayle
The Hon. David Durenberger
Ethyle R. Bloch
Maitland Sharpe

THIS LETTERHEAD PRINTED ON RECYCLED PAPER TO SAVE FOREST RESOURCES

Commonwealth of Massachusetts
Executive Office of Environmental Affairs
Department of Environmental Management

100 Cambridge Street
Boston
Massachusetts
02202

Office of the
Commissioner

Michael S. Dukakis
*Governor*

James S. Hoyte
*Secretary*

James Gutensohn
*Commissioner*

March 1, 1984

Senator Malcolm Wallop, Chairman
Subcommittee on Public Lands and Reserved Water
Committee on Energy and Natural Resources
Room SD 308
United States Senate
Washington, DC 20510

Dear Senator Wallop:

I want to submit to you strong supporting comments on S.1756- The State and River Conservation Act of 1983, that will be heard before your committee on Tuesday, March 6. Unfortunately, previous commitments preclude the attendance of our Scenic Rivers Program Coordinator, Katharine Preston, who would have orally reiterated these written comments before your committee.

Massachusetts is one of 27 states that already has a Scenic Rivers Program. We have identified priority rivers via a statewide inventory, and have initiated a diverse and innovative program to ensure their protection. However, experience has shown us that without the crucial and strong support from municipalities and local watershed groups, our efforts are fruitless. Our program is known for its encouragement of local participation. That this bill helps us do that is no coincidence. The director of the Massachusetts program helped author S.1756.

The bill contains the following provisions designed to stimulate river conservation activities by non-federal agencies and institutions: 1) a grants program to assist in the establishment and administration of state or local river conservation plans, the preparation of management plans, and demonstration projects; 2) the encouragement of volunteers and volunteerism to assist non-federal river conservation programs; 3) the establishment of a concurrence provision under which a federal permit, license or exemption from license or permit must receive state approval before the proposed action may take place on a river protected under this bill, and 4) the approval of federal tax benefits for the donation of lands or interests in lands along rivers protected under this bill.

We are at a crucial point in river management. The investment of 1.5 billion dollars statewide spent to clean up our waterways must be protected. The development pressures felt along the oceanfront during the past few decades will be felt along the banks of the Commonwealth rivers during the next decades. The federal Wild and Scenic Rivers Act holds little relevance here in Massachusetts, where land prices are so high, ownership is predominately private and rivers must meet multiple, and not always compatible, uses. The State and Local River Conservation Act seeks to correct the imbalance of federal involvement on rivers by providing incentives for more relevant management alternatives for our type of resource.

I strongly urge that your subcommittee favorably consider this bill.

Thank you for your time.

Sincerely,

James Gutensohn
Commissioner

OFFICE OF STATE PLANNING
STATE OF NEW HAMPSHIRE
2½ BEACON STREET — CONCORD 03301
TELEPHONE 603-271-2155

1984 MAR -6 PM 2:40

March 1, 1984

The Honorable Malcom Wallop, Chairman
Subcommittee on Public Lands and Reserved Water
Committee on Energy and Natural Resources
United States Senate
Washington, D. C. 20510

Dear Senator Wallop:

The Subcommittee on Public Lands and Reserved Water will soon be conducting hearings on the State and Local River Conservation Act, S. 1756, a bill which complements the present Wild and Scenic Rivers Act. I wish to offer you the encouragement of this office in helping to make the bill become law.

The bill does address some of New Hampshire's concerns regarding the roles of the federal government and state and local governments in river protection efforts. New Hampshire is currently experiencing conflicts in proposed river uses which could be addressed by means of S. 1756, and which are not adequately treated under the present Wild and Scenic River Act.

Monetary grants to assist New Hampshire for the purposes intended by the bill could act as a catalyst for developing a comprehensive state river policy. We are aware that some states are further along in this area than New Hampshire, but we have taken some steps, both legislative and executive, in initiating a state river protection program. The emphasis on voluntary support and effort is certainly necessary. The requirement to pass money through to local governments and private organizations should guarantee this involvement.

A major point which S. 1756 makes is to protect rivers designated in the state program from federally licensed water projects unless the state approves. We strongly feel the need for such protective authorization and would welcome its use in attempting to weigh the issue of competing uses of New Hampshire's rivers.

Thank you for this opportunity to comment on this important bill. I respectfully request that this letter be included in the hearing record.

Sincerely,

David G. Scott

David G. Scott
Acting Director

DGS/DH:am

cc: Senator Gordon Humphrey

# State of Louisiana

DEPARTMENT OF WILDLIFE AND FISHERIES
J. Burton Angelle, Sr.
SECRETARY
(504) 925-3617
POST OFFICE BOX 15570
BATON ROUGE, LA. 70895
Edwin W. Edwards
GOVERNOR

March 23, 1984

Mr. Tony Bevinetto
Public Lands and Reserved Water
Sub-Committee
Room 5D-308
Washington, D. C. 20510

Re: State and Local River Conservation
Act of 1983 (S. 1756)

Dear Mr. Bevinetto:

Act 398 of the 1970 session of the Louisiana Legislature established the state Natural and Scenic Rivers System and designated the Louisiana Department of Wildlife and Fisheries as its Administrator.

The concept of a stream preservation program in Louisiana grew out of an awareness among public officials, professional conservationists, environmentalists and concerned citizens of a need to achieve a balance in water resources development programs in the state, and to protect and enhance our invaluable riverine resources for the present and future generations. Central to these objectives were the provisions in the scenic rivers legislation which provided for maintaining streams in a natural and free-flowing condition by prohibitions against the construction of reservoirs, channel realignments, channelization and clearing and snagging projects. With the adoption of administrative procedures in 1973, the Department of Wildlife and Fisheries sought to provide a sound management program to protect and conserve fish and wildlife habitat and resources, and the recreational values associated with the system, and such aesthetic qualities as were inherent in these natural stream environments.

Today, Louisiana's Scenic Rivers program is one of the largest among all the state programs with 47 streams, or stream segments, comprising a system of well over 1,250 miles.

The administrative staff of the Department's Scenic Rivers program has recently reviewed S. 1756, the State and Local River Conservation Act of 1983, and has analyzed its various provisions in view of their potential effects on our state system.

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Section 301 contains a provision for some $5 million in federal grants which would be available annually on a 50% federal - 50% state matching basis for the administration of state programs. It is our observation that such funding arrangements are likely to be less attractive than perhaps a 70-30% or 75-25% matching formula. We recommend that consideration be given to modifying this provision.

The provision to provide for the participation of local governing bodies and private organizations certainly has merit. However, Louisiana's river program is governed and managed at the state level and the existing legislative and regulatory framework for the program provides for input from local concerns and interest groups concerning management issues and decisions. It is our belief that a strong state program can serve to provide the necessary impetus and direction for local river preservation actions. We suggest that more emphasis could be placed in S. 1756 on assistance for existing state programs.

Section 303 would provide $2 million annually to be available on a one-time basis to state programs for river assessments and inventories using a 75-25% matching formula. We believe that this provision could be of considerable benefit to those state systems, such as Louisiana's, in which there is a need to establish, improve or enlarge the resource database for management purposes.

Section 501 includes a provision to require that federally permitted, licensed or exempted actions or projects on rivers included in state programs would require state concurrence and approval of such actions or projects. This section would considerably strengthen the bargaining power of state river system administrators and provide for a greater measure of long-term stability in state program planning and management.

We conclude that passage of S. 1756 could represent a significant step forward for river conservation efforts throughout the country and, as far as we are aware, this is the only proposal for federal legislation to appear in more than a decade that could provide any real incentive for the establishment or enhancement of river management programs at the state and local levels.

The Louisiana Department of Wildlife and Fisheries is committed to the protection and conservation of our state's riverine resources, and because of that commitment, we strongly endorse and support S. 1756.

Sincerely,

J. Burton Angelle

J. Burton Angelle
Secretary

JBASr/CJK/fsb

STATE OF LOUISIANA
OFFICE OF STATE PARKS

DEPARTMENT OF CULTURE, RECREATION AND TOURISM
P.O. DRAWER 1111 • BATON ROUGE, LOUISIANA 70821-1111 (504) 925-3830

EDWIN EDWARDS
Governor

NOELLE LEBLANC
Secretary

GERALD GUIDROZ
Assistant Secretary

March 20, 1984

Mr. Tony Bevinetto
Public Lands and Reserved Water
Sub-Committee
Room 5D-308
Washington, D.C. 20510

RE: State and Local River Conservation Act of 1983 (S.1756)

Dear Mr. Bevinetto:

We have reviewed the State and Local River Conservation Act of 1983. The Act, in our opinion, will bolster the existing Scenic River System in Louisiana. The primary advantages of the Act are: 1) the availability of grants for river management planning, and 2) the protection of the state's system from federal water projects which could normally hamper the system.

The advantages of this Act to recreation and preservation of our natural resources will definitely benefit the citizens of Louisiana. We do not anticipate any adverse impacts by this bill to the existing administration of Louisiana's Scenic Stream System. We anticipate the Act will improve the state's ability to administer the System by providing funding for needed research of the rivers on the System.

If you have questions or comments concerning this matter, please do not hesitate to contact us.

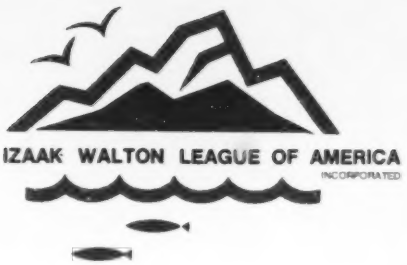
Sincerely,

Gerald F. Guidroz

Gerald F. Guidroz, Ph.D.
Assistant Secretary

GFG:MN:rm

c: Senator J. Bennett Johnston
Chuck Killebrew




March 21,1984

Sen. Malcolm Wallop, Chairman
Subcommittee on Public Lands and Reserved Water
Committee on Energy and Natural Resources
360 Dirksen Building
Washington, D.C. 20510

Dear Mr. Chairman:

Thank you for this opportunity to submit testimony for the record on the State and Local River Conservation Act, S. 1756. The Izaak Walton League is a nationwide conservation organization dedicated to the sound management of America's waters and other natural resources. The League's 50,000 members are hunters, hikers, anglers, and canoeists, and they strongly support efforts to maintain and protect free flowing rivers. The federal Wild and Scenic Rivers System protects some 7000 miles of rivers, but this is less than 0.2% of the total river mileage in the continental United States. The State and Local River Conservation Act, S. 1756, should enhance the ability of state river conservation programs to protect America's remaining unspoiled rivers. The Izaak Walton League of America enthusiastically urges the Subcommittee on Public Lands and Reserved Water to enact S. 1756.

Twenty-seven states have their own river management and conservation programs, but these programs have only protected an estimated 14,0000 miles of rivers, which is only .4% of the total river miles in the continental United States. Section 301 of S. 1756 should increase the river miles included in these programs by providing federal matching funds to enhance the effectiveness of these programs, increase the number of rivers under study for state wild and scenic designation, and provide the resources needed for effective river conservation and management. In addition, providing funds for local government and private conservation organizations' efforts should encourage local river conservation projects, and maximize citizen involvement in these programs.

Section 302 of S. 1756 would provide funds to states to conduct statewide assessments of their rivers. It is our experience that neither the federal government nor the states have much information on the environmental values of rivers, or have

National Office: Suite 1100, 1701 N. Ft. Myer Drive, Arlington, Virginia 22209 • Phone 703 528-1818

determined which rivers require protection. This assessment should provide information needed to make decisions on river conservation and management. We urge the Subcommittee to ensure that states have extensive citizen participation in the development of the assessment and the assignment of values and protection priorities to various rivers. To meet the "significant public involvement" requirement in Section 302, states should include citizen advisory panels, public meetings and hearings, public review and commments on assessments, and other mechinisms that guarantee adequate public participation in their assessments.

We consider Section 501 to be the most essential element of S.1756. It is critical that federal licenses, permits and exemptions do not contradict or undermine protections or conservation plans established by states for their rivers. Too often, federal programs work at cross purposes with state river conservation programs. Sec. 501 provides a careful balance between federal programs and states rights by enabling governors to veto proposed federal permits, licenses, or exemptions that threaten state protected rivers, while establishing conclusive presumption for such actions when states do not object to proposed federal actions within 180 days. Section 501 is essential to enhance the credibility and effectiveness of state river management programs.

Finally, Section 601 provides important incentives for private citizens to aid river conservation by clarifying present uncertainties in existing tax law for donations for conservation purposes. Gifts of land along rivers to federal, state, and local river conservation programs should be eligible for tax deductions. This section should encourage private citizens to take an active role in river conservation.

Section 1756 is a superb compliment to both the Wild and Scenic Rivers Act and to existing state river conservation programs. It would also encourage further development of state and local river conservation programs, and protect these programs from federal actions that threaten their success. S. 1756 will improve federal, state, and local river management and conservation programs to protect and enhance one of our most precious resources: America's remaining free flowing rivers.

Thank you for this opportunity to submit this statement for the record.

Sincerely,

Daniel Weiss

Daniel Weiss
Conservation Associate

# national association
# for state river conservation programs

March 16, 1984

The Honorable Malcolm Wallop
Chairman, Subcommittee on Public
Lands and Reserved Waters
United States Senate
Room S. D. 308, Dirksen Office
Building
Washington, DC 20510

Dear Senator Wallop:

I want to express our appreciation to you again for holding the hearing on the river bills on March 6. We also want to thank your subcommittee staff, particularly Mr. Bevinetto, for their considerable help in facilitating our participation.

At this time, I would like to submit additional information for your consideration with respect to S. 1756. If this material, in whole or in part, could be included in the hearing report, I believe it would contribute substantially to an understanding of the role of the states in river conservation programs and of the need to consolidate a federal/state partnership, through S. 1756, in furtherance of the mutual interests of the federal government and the states in this important resource management activity.

You may recall that I prefaced the testimony I gave on March 6 on behalf of the New York State Department of Environmental Conservation by stating that I also represent the National Association for State River Conservation Programs. This organization was created in 1980 by the administrators of the wild and scenic river programs in the twelve states who met in separate session at a rivers conference held at Lake Mohonk in the Catskill region of New York State. The membership of our association is open to the "river program manager" in each of the 50 states, including those states which may not have formal wild and scenic river programs as such.

The purpose of the organization is not only to facilitate an exchange of information between the states on river conservation matters, but also to encourage consolidation of a partnership between all levels of government and the private sector for the furtherance of nationwide river conservation objectives.

It is our view that the federal government has a special responsibility to provide leadership as a member of this partnership. To date, that leadership has not been forthcoming in any degree sufficient to meet the need, despite the fact that Section 11a of the federal Wild and Scenic Rivers Act requires the Secretary of the Interior to provide it.

In 1980, we adopted a number of resolutions importuning the Department of the Interior to fulfill its responsibilities under Section 11a by working to establish the appropriate partnership with the states. These resolutions are attached. We believe that passage of S. 1756 would ensure that the objectives of these resolutions are realized.

I also attach, for possible inclusion in the hearing report, a summary of the river conservation programs in each of the 50 states, 27 of which have formal wild and scenic river programs. These descriptions have been prepared by the program administrators in each state. They have just been revised and brought up to date during the past three months.

You may be interested in knowing that I reported the March 6 hearing to the members of our association. Some of them will communicate with you directly to express their views on S. 1756.

Again, we appreciate your interest in S. 1756 and, most importantly, the essential principles which underlie the provisions in the bill.

Sincerely,

Charles C. Morrison

Charles C. Morrison, Jr.
Acting President

NYS Dept. of Environmental Conservation
50 Wolf Road
Albany, NY 12233-0001

(518) 457-7433

Attachments

cc: State Program Managers

STATE OF NEW JERSEY
DEPARTMENT OF ENVIRONMENTAL PROTECTION
ROBERT E. HUGHEY, COMMISSIONER
CN 402
TRENTON, N.J. 08625
609-292-2885

December 19, 1983

The Honorable William Bradley
U. S. Senator
731 Hart Building
Washington, DC 20510

Dear Senator Bradley:

The State and Local Rivers Conservation Act (S1756) introduced by Senator Durenburger is currently pending in the Committee on Energy and Natural Resources. If enacted, the Bill would provide needed financial and legal support to New Jersey's river conservation efforts.

Based on a conservative estimate, New Jersey stands to receive almost $70,000 including dollars for local grants, which would be used for updating an existing assessment of our rivers, funding cooperative state and local rivers management plans and establishing land-use management mechanisms as alternatives to out-right land purchase. It would be beneficial to New Jersey and other eastern states with complex land and water management problems if the grant formula were modified to favor equal distribution to states rather than the number of river miles. However, with limited State funds now available for rivers conservation, we would accept our share and use it most efficiently.

To date, New Jersey has only one designated river under the State Wild and Scenic Rivers Act - the Lower Atsion River in Wharton State Forest designated as a wild river. With increasing development in central and northern rural counties, we need to examine river systems such as the Raritan, Passaic and Musconetcong so that they can maintain their scenic characteristics and plan for the most harmonious use of new development. We need to plan for the protection of our most wild rivers along the Delaware Bay, such as the Salem River, Stow Creek and Cohansey Creek, so that they continue in their wild state and in turn preserve their valuable fishery resources. The grant program can help New Jersey initiate management plans, with local involvement, to provide long-term resource protection.

This bill recognizes the fact that we at the State level and local governments are most familiar with our rivers and should be involved in formulating management regulations and techniques which affect us directly. The Department of Interior should provide general guidelines which establish a framework for performing assessments, formulating management plans, and initiating management techniques.

Not included in the legislation, is the role of the National Park Service in providing states with technical assistance. The Philadelphia regional office has worked with several states to perform river assessments and individual river plans. New Jersey has been in touch with NPS for doing similar projects and we would like to see their role continue in the future.

As Assistant Commissioner for Natural Resources I urge you to support the State and Local Rivers Conservation Act. I thank you for your interest and look forward to working with you and your staff on this legislation. The Office of Natural Lands Management within the Division of Parks and Forestry is the responsible agency for Wild and Scenic Rivers planning and management. Thomas F. Hampton, Administrator, and members of his staff can provide any assistance to you including committee testimony in support of the bill. Mr. Hampton can be contacted at:

Office of Natural Lands Management
CN 404
Trenton, NJ 08625

(609) 984-1339

Sincerely,

Original signed by
HELEN C. FENSKE
Helen C. Fenske
Assistant Commissioner
for Natural Resources

cc: Commissioner Hughey
Assistant Commissioner Graham
Director Myers
Administrator Hampton

36-984 O—84 —15

ODNR
OHIO DEPARTMENT OF
NATURAL RESOURCES

Fountain Square
Columbus, Ohio 43224

October 19, 1983

The Honorable John H. Glenn
United States Senator
Senate Office Building
Washington, D.C. 20510

Dear Senator Glenn:

Our Ohio Department of Natural Resources has received a copy of Senate Bill 1756, the "State and Local River Conservation Act of 1983", introduced by Senator Durenberger. Members of my staff had reviewed the bill in draft form some months ago and suggested changes which we were pleased to note were incorporated in the bill as introduced. As the bill now stands, it provides an important incentive for local governments and qualified conservation organizations to assume a greater role in the protection and preservation of Ohio's streams and rivers. This is a very low cost, matching fund approach which possesses the necessary language to ensure that public monies will reach a state and local level and be utilized in a meaningful way without loss to administrative overhead or other reductions in the grant monies' effectiveness.

This bill can be an important assist to Ohio's long term leadership role among the states in pursuing responsible, local community oriented rivers' preservation goals.

I hope that you will lend your full support to this nominal cost, yet very important legislation. Please let me know if you wish further information on Ohio's role and program.

Sincerely,

MYRL H. SHOEMAKER
Director

MHS/ks

cc: L. H. Fremont
Rivers Unlimited
Sarah Sibley

Illinois Department of Conservation
life and land together

LINCOLN TOWER PLAZA • 524 SOUTH SECOND STREET • SPRINGFIELD 62706
CHICAGO OFFICE - ROOM 100, 160 NO. LASALLE 60601
David Kenney, Director • James C. Helfrich, Assistant Director

December 1, 1983

The Honorable Malcolm Wallop, Chairman
Subcommittee on Public Lands and Reserved Water
United States Senator
Washington, D.C. 20510

Dear Senator Wallop:

I am sure you are aware of Senator David Durenberger's recently introduced Senate Bill 1756, The State and Local River Conservation Act of 1983. My staff has reviewed S.1756 and believes that, with several needed changes, it could be a very important piece of legislation. S.1756 complements the National Wild and Scenic River Act by providing federal encouragement for state and local river protection efforts. I, therefore, strongly urge you to support this legislative effort and the amendments necessary to insure that each state receives equitable consideration when S.1756 passes.

States like Illinois, who, while not having completed a statewide river assessment, are in the process of doing so and have made a significant staff and monetary commitment to the effort, should be eligible for Section 301(a) grants under S.1756. Therefore, Section 302's opening language should be changed to read "Before a State shall be eligible for the receipt of grants under Section 301(a) of this Act, that State shall either have an established state program, **shall have shown significant progress in developing,** or have developed an assessment of river related resources of the state." Since 1981, Illinois has invested over $400,000 in a detailed inventory of its streams, and development of a protection plan is underway.

Section 302(a) should also be modified to include the words **"and cultural"** following the words "natural environmental" to broaden the scope of protection efforts to encompass the cultural as well as natural values of streams, consistent with the language of Section 201(a) (1).

If these improvements are made in S.1756 the State of Illinois would fully support the legislation. Please feel free to contact me if I can supply further information and assistance.

Sincerely,

David Kenney

DK:gb

cc: Dale Heydlauff

cc: Arce

Commonwealth of Massachusetts
Executive Office of Environmental Affairs
Department of Environmental Management

100 Cambridge Street
Boston
Massachusetts
02202

Office of the
Commissioner

March 1, 1984

Senator Malcolm Wallop, Chairman
Subcommittee on Public Lands and Reserved Water
Committee on Energy and Natural Resources
Room SD 308
United States Senate
Washington, DC 20510

Dear Senator Wallop:

I want to submit to you strong supporting comments on S.1756-The State and River Conservation Act of 1983, that will be heard before your committee on Tuesday, March 6. Unfortunately, previous commitments preclude the attendance of our Scenic Rivers Program Coordinator, Katharine Preston, who would have orally reiterated these written comments before your committee.

Massachusetts is one of 27 states that already has a Scenic Rivers Program. We have identified priority rivers via a statewide inventory, and have initiated a diverse and innovative program to ensure their protection. However, experience has shown us that without the crucial and strong support from municipalities and local watershed groups, our efforts are fruitless. Our program is known for its encouragement of local participation. That this bill helps us do that is no coincidence. The director of the Massachusetts program helped author S.1756.

The bill contains the following provisions designed to stimulate river conservation activities by non-federal agencies and institutions: 1) a grants program to assist in the establishment and administration of state or local river conservation plans, the preparation of management plans, and demonstration projects; 2) the encouragement of volunteers and volunteerism to assist non-federal river conservation programs; 3) the establishment of a concurrence provision under which a federal permit, license or exemption from license or permit must receive state approval before the proposed action may take place on a river protected under this bill; and 4) the approval of federal tax benefits for the donation of lands or interests in lands along rivers protected under this bill.

We are at a crucial point in river management. The investment of 1.5 billion dollars statewide spent to clean up our waterways

Michael S. Dukakis
Governor

James S. Hoyte
Secretary

James Gutensohn
Commissioner

must be protected. The development pressures felt along the oceanfront during the past few decades will be felt along the banks of the Commonwealth rivers during the next decades. The federal Wild and Scenic Rivers Act holds little relevance here in Massachusetts, where land prices are so high, ownership is predominately private and rivers must meet multiple, and not always compatible, uses. The State and Local River Conservation Act seeks to correct the imbalance of federal involvement on rivers by providing incentives for more relevant management alternatives for our type of resource.

I strongly urge that your subcommittee favorably consider this bill.

Thank you for your time.

Sincerely,

James Gutensohn
Commissioner

JG/KP/vc

cc: American Rivers Conservation Council

State of South Carolina
Water Resources Commission

Alfred H. Vang
Executive Director

December 5, 1983

The Honorable Ernest F. Hollings
United States Senate
125 Russell Senate Office Building
Washington, D.C. 20510

Dear Senator Hollings:

I am writing this letter to encourage your support of a bill now before the Senate. The Bill, S.1756 (The State and Local River Conservation Act of 1983), would provide much needed assistance and incentives to state and local river conservation programs.

Over 700 miles of rivers within South Carolina have been identified as having significant historical recreational or scenic value. At present only 5 miles of river are protected by the South Carolina State Scenic River Program. An additional 40 miles of river are afforded protection by the National Wild and Scenic River System.

Passage of Bill S.1756 would do a great deal to strengthen the South Carolina State Scenic Rivers Program and those of other states as well. It would increase funding for management plans, inventory, and enforcement as well as create opportunities for better tax incentives and grass roots support and involvement. In addition the Bill will complement the objectives of the Natural Wild and Scenic Rivers Program.

With your support Bill S.1756 can provide the foundation to preserve one of our nation's most valuable resources--our free-flowing rivers.

Thank you for your consideration on this matter.

Sincerely,

Alfred H. Vang
Executive Director

AHV:fw

JACKIE SWIGART
SECRETARY

JOHN Y. BROWN, JR.
GOVERNOR

COMMONWEALTH OF KENTUCKY
NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION CABINET
OFFICE OF THE SECRETARY
FRANKFORT, KENTUCKY 40601
TELEPHONE 502/564-3350

Senator Walter D. Huddleston
Dirkson Senate Office Bldg. 262
Washington, D.C. 20510

Dear Senator Huddleston:

As you may be aware, Senate Bill 1756 (The State and Local River Conservation Act of 1983) which was originally sponsored by Senator David Durenberger (R-MN), is now before Congress. This bill contains a number of provisions designed to stimulate river conservation activities by nonfederal agencies. These provisions are very compatible with, and in many cases supplement, the intent and activities of state wild and scenic rivers programs. This is especially true in Kentucky since the Commonwealth has both a Wild Rivers Program and is blessed with an abundance of rivers.

Accordingly, the proposed Senate Bill would greatly benefit the Commonwealth's efforts to strengthen our rivers protection program. In particular, it would provide more funds for management plans, inventory, and enforcement. It would also create opportunities for better tax breaks for the donation of, or interests in, lands along protected rivers. Most important, however, it would better guarantee river preservation by requiring state approval of proposed federal water projects. The present lack of federal-state cooperation has always cast an element of uncertainity on our long-range river management plans.

In summary, this bill will provide substantial assistance and incentives to our Wild Rivers Program. Since a number of positive measures are promised, I strongly support early passage of Senate Bill 1756 and hope that you also favorably consider this bill.

Sincerely,

Jackie Swigart

Jackie Swigart
Secretary

JS:jdb

Rivers Unlimited 3012 Section Road • Cincinnati, Ohio 45237

*Since 1972, to preserve Ohio's remaining natural, free-flowing streams*

February 6, 1984

Representative Bill Gradison
U. S. House of Representatives
Washington, D.C. 20515

Subject: S. 1756, State & Local Rivers Conservation Act

Dear Bill,

By now you may have met with my friends from American Rivers Conservation Council to discuss House support of this bill.

We would truly appreciate your co-sponsorship of this effort to help state and local groups to protect their rivers, a natural resource. As one of several across the country I have worked on the concept and the bill itself for several years. Our Ohio Department of Natural Resources contributed to the content and have urged our Senators to support it.

Altogether, we think it would be very beneficial for Ohio and would return to us here many times its modest cost.

Sorry to have been out of touch with you for so long, because of the extraordinary press of business and my usual nefarious conservation activities - it's almost as bad as being a Congressman!

Kindest regards,

Mike

L. H. Fremont

LHF/bkf

Illinois Department of Conservation
life and land together

LINCOLN TOWER PLAZA • 524 SOUTH SECOND STREET • SPRINGFIELD 62706
CHICAGO OFFICE - ROOM 100, 160 NO. LASALLE 60601
David Kenney, Director • James C. Helfrich, Assistant Director

March 13, 1984

Honorable Malcolm Wallop, Chairman
Subcommittee on Public Land and
Reserved Water
SD-308
United States Senate
Washington, D.C. 20510

Dear Senator Wallop:

I noted with interest the fact that your committee held a hearing on March 6, 1984, to consider S. 1756, the State and Local River Conservation Act. This letter is to let you know that the Illinois Department of Conservation still strongly supports this piece of legislation with those modifications proposed in my letter to you of December 1, 1983.

Sincerely,

David Kenney

David Kenney

DK:GT:sm

cc: Dale Heydlauff

March 1, 1984

The Honorable Malcolm Wallop, Chairman
Subcommittee on Public Lands and Reserved Water
United States Senate
Washington, D.C. 20510

Dear Mr. Chairman:

We appreciate this opportunity to express our support for the inclusion of that portion of the Snake River which flows through the Snake River Canyon in the Wild and Scenic River System. The United States Forest Service recommendation for 'Scenic' designation of a 13 mile stretch of river almost entirely bounded by Forest Service public land is consistent with the character and use of this resource, and we strongly endorse this proposal.

I'm sure, Mr. Chairman, that you fully appreciate the complete reliance of Teton County and the Jackson Hole area on recreation as our economic base. For the benefit of other Committee Members let me note that float trips on the Snake River, primarily within Grand Teton National Park and through the Snake River Canyon, are the single most popular outdoor activity for the several million visitors to our area each summer. In the Snake River Canyon last summer more than seventy-seven thousand people enjoyed the excitement of moderate whitewater frequently in combination with stimulating interpretive discussions of the geology and natural history of the thrust belt. In Grand Teton National Park another eighty-four thousand found pleasure in the serenity of a more leisurely river experience based on the aesthetics of a landscape and wildlife habitat unique among our national parks.

We believe that your favorable consideration of Wild and Scenic designation as proposed for the canyon portion of the Snake River will perpetuate its free flowing character for the benefit and enjoyment of present and future generations and we further believe that such designation is consistent with the highest and best use of this special resource.

Richard C Barker
Barker-Ewing Float Trips

Rod Lewis
Lewis and Clark Expeditions

Charles F. Sands
Sands Wildwater River Trips

Frank S. Ewing II.
Barker-Ewing Float Trips

Linda A. Hubbard
Riverwind Float Trips

Brent O'Neill
Mad River Boat Trips

TO WHOM IT MAY CONCERN:

How many of those wanting the Clark's Fork River to remain wild have seen the flooding caused by the Spring run-off down river, especially from Bridger to the confluence with the Yellowstone River?

The few people of the Sunlight area above the canyon of the Clark's Fork where a dam could be located, helping conserve water, creating much needed power and alleviating the flooding of rich agricultural lands of the Clark's Fork valley, would suffer far less than the people below the canyon will suffer from the creation of the Wild River Status proposed for the Clarks Fork River.

Speaking of Environment! Electrical energy which could be generated by damming and controling water flow of the Clark's Fork River could do much to furnishing much needed power without crdating acid rain caused by some other means of electrical power generation.

If it is wise to raise the Buffalo Bill Dam to create more clean electrical power, so would harnessing the Clarks Fork River, to create more electrical power. Also, it would control the water flow to control flooding down river, insure water flow for irrigation and development of more agricultural lands.

Humanity and the masses can be better served by making use of nature's creation for the location of a dam and power plant in the Clark's Fork Canyon. Much research has already been done toward locating a dam, and a good deal of access road necessary to transportation of materials and machinery is already built. Let's make good use of money already spent. Vote against the Wild River status for the Clark's Fork River.

A wild river may satisfy a few people but many can suffer far more environmentally, economically and physically from a wild river for a minority to control and dominate, as will be the case if the Clark's Fork River is so designated. Only a few will ever see it because of private lands bordering on it, and above the Clark's Fork Canyon.

Willie F. Jackson

Signed; Willie F. Jackson

1808 Alger Ave.

Cody, Wyo; 82414

Wild + Scenic

MARJORIE L. NI
Secretary of S

Senate Chamber
State of Colorado
Denver

State Capitol
Denver, Colorado 80203
866-2316

April 16, 1984

Senate Energy and Natural Resources Committee
The Honorable James A. McClure, Chairman
360 Dirksen Senate Office Building
Washington, D.C. 20510

Dear Senator McClure:

The Senate and the House of Representatives of the Fifty-fourth General Assembly of the State of Colorado, meeting in second regular session, have adopted the enclosed Senate Joint Resolution No. 14 and requested that a copy be forwarded to you for your information.

Sincerely yours,

Marjorie L. Nielson

Marjorie L. Nielson

MLN/pp

Enclosure

SENATE COMMITTEE ON
ENERGY AND NATURAL RESOURCES
RECEIVED
APR 18 1984

SENATE JOINT RESOLUTION NO. 14.

BY SENATORS McCormick, Bishop, Allard, Noble, Phelps, Soash, Allhouse, Arnold, Baca, Beatty, Beno, Brandon, Callihan, Donley, Fowler, Gallagher, Glass, Groff, MacManus, Meiklejohn, Peterson Powers, Rizzuto, Stewart, Stockton, Strickland, Traylor, and Wells.
also REPRESENTATIVES Younglund, Bryan, Campbell, McInnis, Paulson, Artist, Bledsoe, Burkhardt, Chavez, Davoren, Fine, Gillis, Groff, Hamlin, Hernandez, Herzog, Hover, Larson, Lucero, Markert, Minahan, Mutzebaugh, Neale, Pankey, Reeves, Taylor-Little, Tebedo, and Wattenberg.

URGING THAT THE UNITED STATES CONGRESS ADOPT H.R. 5185, AS INTRODUCED, FOR A WILD AND SCENIC RIVER DESIGNATION OF SEGMENTS OF THE CACHE LA POUDRE RIVER SO THAT THE FEDERAL DESIGNATION OF WILD AND SCENIC RIVERS IN COLORADO DOES NOT PRECLUDE THE PRUDENT DEVELOPMENT AND MANAGEMENT OF COLORADO'S WATER RESOURCES.

WHEREAS, For years the Cache la Poudre River in northern Colorado has been the subject of intense disagreement regarding the future use

of its water resources, whether for development or preservation, or a combination of both; and

WHEREAS, The Cache la Poudre River and Poudre Canyon provide exceptional opportunities for recreation including white water rafting, kayaking, camping and picnicking, superb trout fishing, hiking and cross-country skiing, and excellent hunting; and

WHEREAS, The river and canyon is an area of important habitat for fish and wildlife including wild trout, herds of deer, elk, and bighorn sheep and the Cache la Poudre River and Poudre Canyon have unparalleled geologic formations and scenic beauty; and

WHEREAS, The Poudre River has sites for water resources development to serve many beneficial uses, and the western states, and Colorado in particular, have grown and prospered in a water-short region, in reliance on the validity of the appropriation doctrine, to the benefit of the United States as a whole, and the future of this state depends upon its continued ability to develop and conserve the waters apportioned to it by nine interstate compacts; and

WHEREAS, Since Statehood Colorado has carefully nurtured the doctrine of prior appropriation for allocation of the water resources of this State, and designation of a federal wild and scenic river segment in Colorado requires careful consultation and coordination between the legislature, the governor, and citizens who have an interest in water matters; and

WHEREAS, Competing uses for natural resources are best resolved by full and open discussion of the issues and negotiation among interested parties; and

WHEREAS, Congressman Hank Brown established a committee representative of the various groups having diverse interests in recreation, wildlife, environmental protection and water development and such committee, after intensive study and deliberation on the wild

and scenic river designation, has agreed upon a compromise plan for designation of the Cache la Poudre River as a wild and scenic river which is consistent with water resource development of the Cache la Purdre River; and

WHEREAS, The federal designation of streams in Colorado as wild and scenic rivers should occur upon a recommendation favoring such designation being made to the Congress by the General Assembly, a majority of each house concurring therein, and by the governor of Colorado, after consultation with interested agencies; now, therefore,

Be It Resolved by the Senate of the Fifty-fourth General Assembly of the State of Colorado, the House of Representatives concurring herein:

(1) That the ninety-eighth Congress, second session, enact H.R. 5185, as introduced by Congressman Hank Brown of Colorado, keeping intact the compromise plan for water development and designation of wild and scenic river segments contained therein;

(2) That designation of wild and scenic river segments should not affect the jurisdiction of the State of Colorado over water rights, and the taking of any water right vested under state law at the time of designation shall entitle the owner to full and just compensation;

(3) Nothing in the Cache la Poudre River wild and scenic river designation shall preclude the construction, management, or operation of a water resource project at the Rockwell Dam site on the South Fork of the Cache la Poudre River, the Indian Meadows site on the Cache la Poudre main stem or the Grey Mountain site on the Cache la Poudre main stem, nor shall it preclude enlargement of the New Seaman Reservoir on the North Fork of the Cache la Poudre River nor shall it preclude the enlargement, management, or operation of existing reservoirs or diversion structures; except, with respect to such projects, that bypasses will be provided for reasonable maintenance of

fish life and scenic purposes with regard to the designated reaches of the Cache la Poudre River.

Be It Further Resolved, That copies of this Resolution be sent to each member of Congress from the State of Colorado and to the members of the Interior and Insular Affairs Committees of the House and Senate of the United States Congress and to the Speaker of the House and the Majority Leader of the Senate.

Ted L. Strickland
PRESIDENT OF
THE SENATE

Carl B. Bledsoe
SPEAKER OF THE HOUSE
OF REPRESENTATIVES

Marjorie L. Nielson
SECRETARY OF
THE SENATE

Lorraine F. Lombardi
CHIEF CLERK OF THE HOUSE
OF REPRESENTATIVES